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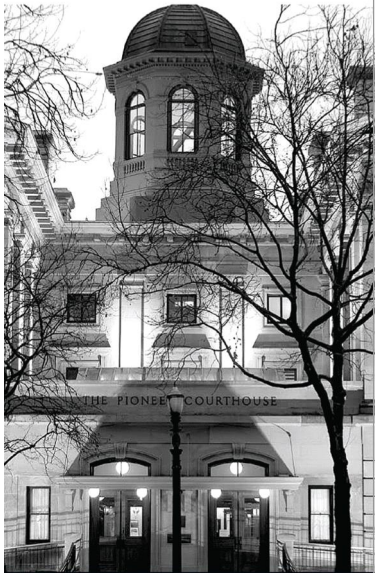
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

JOHN MEYER,

Plaintiff,

vs.

Cause No. 18-CV-02-BMM

BIG SKY RESORT,

Defendants.

DEPOSITION BY ZOOM VIDEOCONFERENCE OF

TREVOR LOWELL

TAKEN ON
TUESDAY, AUGUST 25, 2020
11:15 A.M.

CAPITOL PLAZA CONFERENCE CENTER
100 STATE STREET, BOARDROOM 232
MONTPELIER, VERMONT 05602

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1 **DEPOSITION BY ZOOM VIDEOCONFERENCE OF**

2 **TREVOR LOWELL**

3 **TAKEN ON**

4 **TUESDAY, AUGUST 25, 2020**

5 **11:15 A.M.**

6
7 **TREVOR LOWELL:** Being first duly sworn by
8 a Notary Public to tell the truth, deposes and says
9 as follows:

10 **EXAMINATION**

11 **BY MR. MORRIS:**

12 **Q** Good morning, Mr. Lowell. Will you please
13 **state your name and address?**

14 **A** My name is Trevor Lowell. My address is
15 184 Elm Street, Apartment 3, Montpelier, Vermont
16 05602.

17 **Q** Thanks. And my name is Mac Morris and I
18 **represent Big Sky Resort in this matter. And we're**
19 **here today in this deposition via Zoom and Breean**
20 **Walas is here as well. You recognize that she is**
21 **here as well, Mr. Meyer's counsel?**

22 **A** I do.

23 **Q** Okay. And how long have you lived at your
24 **current address?**

25 **A** One year.

1 **Q And who resides with you at that address?**

2 A My wife and my child.

3 **Q And have they lived with you the whole**
4 **time that you have been at that address?**

5 A Yes.

6 **Q And where did you live before you moved to**
7 **your current home?**

8 A We lived in Missoula, Montana.

9 **Q How long were you in Missoula for?**

10 A From September of 2015 until one year ago.

11 **Q Have you ever given a deposition before**
12 **today?**

13 A Never.

14 **Q Never you said?**

15 A Never.

16 **Q And other than in a deposition, have you**
17 **ever given or testified under oath in any proceeding**
18 **of any kind?**

19 A No.

20 **Q And you're here today, you understand,**
21 **appearing pursuant to a subpoena?**

22 A Yes.

23 **Q And did you -- did you bring anything with**
24 **you today other than your laptop?**

25 A I brought a mask. I brought a work bag

1 with a granola bar. I brought a water bottle. And
2 I brought the subpoena documents that you hand-
3 delivered to my address.

4 Q Okay. So since you've never given a
5 deposition before, I'll just go over some sort of
6 basic, the deposition with you. And there's sort of
7 some basic rules that we follow in depositions.

8 And the first one is that today all your
9 responses need to be oral, that is, you can't sort
10 of just nod your head or shrug your shoulder or do
11 that sort of thing.

12 Do you understand that?

13 A I do.

14 Q And you're doing a great job with that.
15 And the other thing is if you say uh-huh or huh-uh,
16 I know what you mean, but for purposes of getting a
17 clear record with the court reporter, I may ask you
18 is that a yes or is that a no. And I am not trying
19 to be rude or anything, I'm just trying to get a
20 clear record.

21 Is that fair?

22 A I understand.

23 Q Okay. And you are doing a good job with
24 this one as well, but today we can't talk over one
25 another. The court reporter needs to take everything

1 down that we are saying. So if you could, please,
2 would you agree to allow me to finish my question
3 before you begin answering?

4 A Yes.

5 Q And if I cut you off in the middle of your
6 answer, will you let me know?

7 A Yes.

8 Q And if you don't let me know that you
9 haven't finished your answer, I'm going to assume
10 that you have.

11 Is that fair?

12 A I understand.

13 Q Okay. The other thing is if I ask you a
14 question that you find confusing or you don't
15 understand, can you please let me know that you
16 didn't understand the question?

17 A Yes.

18 Q And if you don't tell me that you
19 misunderstood the question, you understand that I'm
20 going to assume that you understood the question as
21 phrased?

22 A Yes.

23 Q And you obviously understand that you are
24 under oath today; right?

25 A Yes.

1 Q And so you've sworn, I know, to tell the
2 truth today?

3 A Yes.

4 Q And you will do that?

5 A Yes.

6 Q So I don't know how long we'll go today,
7 but if you need to take a break at anytime, please
8 just let me know and we can take a break. If you
9 want to get coffee, or water, or just go to the
10 bathroom or whatever, will you let me know that?

11 A Yes.

12 Q Okay. And the only thing I would say
13 about taking breaks is I'll typically want you to
14 answer any question if I have a question pending, if
15 you can answer that last pending question before you
16 take a break, I'll usually require you to do that.

17 Do you understand that?

18 A I do.

19 Q So it seems like you are already a pro at
20 depositions, but have you done anything to prepare
21 for today's deposition?

22 A No.

23 Q Okay. Did you review any documents at all
24 to prepare for today's deposition?

25 A I took a cursory glance at the link that

1 you shared last night and the files that were in
2 there, but I didn't spend really much time looking
3 at them since I produced all of them and I was
4 somewhat familiar with them. So that is the only
5 real review of any substance that I've done.

6 **Q Okay. And did you talk with anybody about**
7 **today's deposition?**

8 A When Breean was asking me if I would
9 testify I asked her sort of what was involved and
10 what was expected. And she advised me to dress nice
11 and be honest, so.

12 **Q Okay. Anything else that you can -- so**
13 **you had a conversation with Breean about testifying;**
14 **is that right?**

15 A Yeah, the request was made of me and I
16 reached out to ask not knowing what was involved in
17 the deposition process, what to expect.

18 **Q Okay. And was that initial conversation**
19 **about testifying at trial or was it about testifying**
20 **at a deposition like today?**

21 A I believe the conversation started with
22 the general request to be a witness. And I had
23 concerns about traveling. I have a young five-month
24 old son and was not interested in having to get on a
25 plane and expose myself to certain health risks.

1 And so we talked about the process how the
2 deposition would come first. We could likely do that
3 via Zoom or teleconference.

4 And that the likelihood of me
5 participating in a jury trial would be a decision
6 that would be made after the deposition and that we
7 could more or less cross that bridge though me being
8 an in-person witness when that time came at a later
9 date.

10 **Q Okay. And when you spoke with Breean**
11 **about being a trial witness or being deposed, do you**
12 **recall anything that she spoke with you about as to**
13 **why she made that request?**

14 **A** No, it was more about what to expect for
15 the process.

16 **Q Okay. Anything other than what to expect**
17 **in the process that you recall from your**
18 **conversations with Breean?**

19 **A** No.

20 **Q Okay. And in terms of things that you**
21 **would expect from the process, have you pretty much**
22 **described everything to me that you recall about**
23 **that?**

24 **A** Yes.

25 **Q Was there anybody else present during your**

1 **conversations with Breean?**

2 A No.

3 **Q And how long did you talk with her for?**

4 A I would say it was a five-minute
5 conversation.

6 **Q Have you talked with anyone else about**
7 **either testifying at a deposition or at trial**
8 **besides Ms. Walas?**

9 A I have spoken with my wife about it. I
10 spoke to my father about it. More or less, you
11 know, that I was coming in to do this. I have never
12 done it before so it was in the context of something
13 new and interesting in a world of monotony.

14 **Q I hear you.**

15 **And I'm sorry, do you mind if I call you**
16 **Trevor today or do you prefer if I called you Mr.**
17 **Lowell?**

18 A No, you may call me Trevor.

19 **Q Okay. And you said you spoke with your**
20 **dad about this?**

21 A Yeah.

22 **Q And has he ever had his deposition taken**
23 **before?**

24 A I don't know that.

25 **Q Did he offer you any advice about the**

1 **deposition process or anything of that sort?**

2 A No.

3 **Q And did you tell him why you were being**
4 **deposed?**

5 A He's familiar with Mr. Meyer's accident
6 and so he knows that it is in the context of that
7 incident.

8 **Q Okay. And anybody else besides your wife,**
9 **your dad and Ms. Walas that you have spoken to about**
10 **testifying or being deposed?**

11 A Mr. Meyer knows that I'm being deposed. I
12 haven't had conversations with him about it. I
13 think I -- I think I mentioned to him that I was
14 somewhat annoyed that I had to give up a workday to
15 be a witness in a deposition for him, but there
16 wasn't a conversation about, you know, what would be
17 said or he didn't provide any advice to me or
18 instruct me in any way.

19 **Q Okay. When did that -- do you recall**
20 **actually a specific conversation where he asked you**
21 **to be a witness in this case?**

22 A The initial request came via text message.
23 And I believe I texted him back and I said I would
24 need more context or more information. And that
25 then led to the conversation with Breean.

1 **Q Okay. And did you have a phone call with**
2 **Mr. Meyer following that conversation or that text**
3 **exchange?**

4 A I had a phone call with Mr. Meyer and his
5 intern Kyle Kearns yesterday as part of being a
6 board member of Cottonwood Environmental Law Center,
7 so we were discussing --

8 **Q Okay.**

9 A -- board engagement and trying to recruit
10 new members, trying to strengthen the engagement and
11 the activity of the board.

12 **Q Anything about testifying -- I'm sorry, I**
13 **should have been more clear.**

14 **Did you have a conversation with Mr. Meyer**
15 **about testifying in the trial in this case or being**
16 **deposed in this case after that initial text**
17 **exchange about you being a witness?**

18 A No, the only conversation I've had since
19 is the one I described yesterday.

20 **Q Okay. And any other form of communication**
21 **with Mr. Meyer about testifying or being deposed in**
22 **this case other than that text exchange?**

23 A No.

24 **Q Can you tell me where did you go to high**
25 **school?**

1 A I did my freshman year at Inter-Lakes High
2 School in Meredith, New Hampshire. I did my
3 sophomore, junior and senior year as a day student
4 at New Hampton Preparatory School in New Hampton,
5 New Hampshire.

6 **Q And that's obviously where you grew up was**
7 **in New Hampton in New Hampshire?**

8 A I grew up in Center Harbor, New Hampshire
9 which is a town or two away from New Hampton. So
10 the town next to Meredith.

11 **Q And after high school did you -- you went**
12 **on and got a degree?**

13 A Yes.

14 **Q What did you get a degree in?**

15 A I got a Bachelor of Arts in English.

16 **Q Where did you attend school to get that**
17 **Bachelor of Arts?**

18 A St. Lawrence University in Canton, New
19 York.

20 **Q What year did you graduate?**

21 A 2008.

22 **Q And what did you do after you graduated**
23 **from St. Lawrence?**

24 A Immediately or what sort of time frame are
25 you --

1 **Q Sure. Did you go to anymore schooling**
2 **after getting your degree from St. Lawrence?**

3 A Several years later I went to New York
4 University and received a Master's degree in food
5 studies.

6 **Q Okay. When did you get that degree?**

7 A I graduated in 2015.

8 **Q How long did it take you to get that**
9 **degree?**

10 A It was a two-year.

11 **Q So what did you do in terms of work or**
12 **otherwise between getting your degree from St.**
13 **Lawrence and starting your food studies master's**
14 **program?**

15 A I worked as a carpenter. I worked as a
16 goat milker. I worked as a property manager for a
17 couple, so sort of like a private employee for them
18 helping them with their ranch. I think that's it.

19 **Q Obviously your favorite job was goat**
20 **milking?**

21 A It was a good job, yeah. Probably
22 familiar with Amaltheia Dairy in Belgrade?

23 **Q Oh, yeah, is that right?**

24 A Yeah, I milked goats for them for about a
25 year and a half.

1 **Q Is that when you first moved to Montana to**
2 **Belgrade for the goat milking job?**

3 A I moved to Montana in January of 2009 with
4 no job secured at the time. That was the first job
5 that I secured.

6 **Q Okay. How long were you in Montana in**
7 **2009?**

8 A I started graduate school in fall of 2013,
9 so I think we were there for four years.

10 **Q Okay. So, and where did you live in those**
11 **four years starting in 2009?**

12 A I lived for a year on Olive Street in
13 downtown Bozeman.

14 **Q Okay.**

15 A And then the remainder of the two and a
16 half, three years we lived in South Cottonwood
17 Canyon.

18 **Q Got you. So in and around Bozeman for**
19 **four years?**

20 A Yeah, within the town limits the entire
21 time.

22 **Q Okay. And while you were in Bozeman you**
23 **had the goat milking job and then what other jobs**
24 **did you have in Bozeman? I'm sorry if I'm asking**
25 **the same question twice.**

1 A No, it's fine. I realized there was
2 another two. I had the goat milking job initially.
3 I then transitioned to work for a carpenter who is
4 based in Bozeman. Did residential construction with
5 him for over a year. I took a property maintenance
6 position with a couple in Gallatin Gateway who had a
7 horse property there.

8 And I worked in Four Corners, there was a
9 garden supply store. So I worked retail there doing
10 typical retail activities, working behind the
11 counter, receiving product, stocking, inventory.

12 I was also an unpaid intern for what was
13 Zone 4 Magazine which is now I think defunct.

14 Changed it's name to Rocky Mountain
15 Gardening or something and then I'm not sure that
16 it's in existence anymore.

17 **Q Okay. And what's your current job?**

18 A I'm the farm to institution program
19 manager for the Vermont Agency of Agriculture and
20 Markets. And I work within the agricultural
21 development division.

22 **Q How long have you had that job?**

23 A One year.

24 **Q And what do you do? What are your duties**
25 **in that job?**

1 A I'm on a typical non-Covid world I would
2 primarily be managing grant programs. The state
3 allocates general fund money to a couple of
4 different programs targeted at promoting and
5 expanding farm to school activities at public and
6 private institutions as well as trying to work with
7 institutions such as hospitals, colleges and
8 universities, correctional facilities to connect
9 them with local agricultural producers in an effort
10 to promote and expand Vermont's agricultural
11 economy.

12 **Q Are you also on the board of directors for**
13 **Cottonwood Environmental Law Center currently?**

14 A I am. I'm currently the Board Chair.

15 **Q And how long have you been on the board of**
16 **Cottonwood Environmental Law?**

17 A I don't know exactly. I would guess three
18 years.

19 **Q If I refer throughout this deposition to**
20 **Cottonwood or Cottonwood Law, will you know that I'm**
21 **referring to Cottonwood Environmental Law Center?**

22 A Yes.

23 **Q Can you tell me what you do as the Board**
24 **Chair for Cottonwood?**

25 A I run the twice yearly board meetings

1 which are, you know, conference calls with the rest
2 of the board members and John. I review contracts.
3 There was a marketing contract that we were looking
4 at last year. I review, and with the rest of the
5 board members, approve the budget.

6 We advise on cases as far as the more
7 broadly which cases would be of interest to an
8 organization. Sort of typical nonprofit board
9 participation. Help recruit board members.

10 **Q I'm sorry, go ahead.**

11 A Help recruit new board members. Speak
12 with potential board members about the organization
13 and roles and responsibilities of serving on the
14 board.

15 **Q Have you ever been paid for any of that**
16 **work?**

17 A No.

18 **Q And so you don't consider yourself**
19 **employed at all by Cottonwood Law Center,**
20 **Environmental Law Center; right?**

21 A No, it's a volunteer capacity position.

22 **Q About how much time do you spend in a**
23 **given month with work in that capacity for**
24 **Cottonwood?**

25 A Averaged out, I mean, some months it's

1 none at all. So average out over a year I would say
2 two hours a month.

3 **Q Okay. And do you have any experience**
4 **outside of Cottonwood as a board member on a sort of**
5 **nonprofit?**

6 A Yes.

7 **Q Okay. Can you tell me about that?**

8 A I was on the board of the Community Food
9 and Agriculture Coalition which is based in
10 Missoula, Montana. I joined as a board member and
11 then I -- about a year and a half into my tenure was
12 elected Board Chair of that organization. So I
13 chaired the board until I left Missoula -- a few
14 months before I left Missoula last year.

15 **THE REPORTER:** Excuse me. Someone is at
16 the door. It's probably the documents that were
17 being copied.

18 **(Discussion held off the record)**

19 **MR. MORRIS:** Back on the record.

20 **BY MR. MORRIS:**

21 **Q And the board -- the Community Food -- I'm**
22 **sorry, will you tell me that name again?**

23 A The Community Food and Agriculture
24 Coalition commonly referred to as CFAC. That's
25 easier.

1 **Q And what -- what sort of is its mission?**

2 A It's a food systems nonprofit so it runs a
3 couple of different programs. Generally federally
4 grant funded so they tend to shift depending on the
5 grants that they receive, but we had an arm of the
6 organization that was focused on food access. So we
7 ran the double SNAP dollars program at a number of
8 Farmers' Markets throughout western Montana and
9 facilitated that.

10 There was a beginner farmer rancher
11 program that the organization ran, so that was a lot
12 of training. There was just sort of general
13 promotion of local and sustainable agriculture food
14 systems. So trying to connect people through events
15 and farm tours.

16 There were workshops that we hosted for
17 people interested in learning about how to garden.
18 They ran the Land Link program connecting folks
19 seeking agricultural land to those who may have it
20 or may be looking for the next generation to take
21 over.

22 Ran an employee farm handling program,
23 similar concept, trying to connect labor needs at
24 local farms and ranchers with people interested in
25 being employed and learning more agricultural

1 skills.

2 **Q How long did you serve on the board of**
3 **that nonprofit?**

4 A I believe about three years in total.

5 **Q Okay. Was it over the same course of time**
6 **that you were on the board with Cottonwood?**

7 A There was maybe a year overlap. I am not
8 exactly sure, but I started -- when I started on the
9 board of CFAC I was not on the board of Cottonwood.
10 I was asked by John to join the board of Cottonwood
11 maybe two years after I started with, on the board
12 of CFAC.

13 **Q Got you. And why did you leave or resign**
14 **or whatever from your board position with the**
15 **Community Food and Agriculture Coalition?**

16 A It's a Missoula based nonprofit whose work
17 is focused in that community in the western Montana
18 community. They have monthly in-person board
19 meetings.

20 **Q I'm sorry, could you repeat that last**
21 **part?**

22 A They have monthly in-person board
23 meetings. And the expectations of the board is that
24 you participate in a lot of events in the community.
25 You engage in fundraising with people in the

1 community. You just, you know, there's an
2 expectation that you're a physical presence in many
3 different ways, so it just didn't make sense that I
4 would be moving to Vermont and would no longer be
5 able to participate physically in any of the
6 meetings, or the events or what have you. So I
7 stepped down.

8 **Q Were the demands on your time with that**
9 **nonprofit greater than those with Cottonwood?**

10 A Yes.

11 **Q About how many hours in a month did you**
12 **spend with Community Food and Agriculture Coalition**
13 **on average as a board member?**

14 A I would say five to six is speculation,
15 but my best guess.

16 **Q When you were in Missoula, what was your**
17 **job outside of the work that you were doing with the**
18 **nonprofit Cottonwood and Community Food?**

19 A I was a sustainability director for the
20 University of Montana Dining.

21 **Q And how long did you hold that job?**

22 A My entire time I lived in Missoula. I
23 moved there for the job. And stepped down from the
24 position when I got the job in Vermont.

25 **Q So was that about, what --**

1 A It would be September 2015 to late June of
2 2019.

3 **Q Have you ever worked at a ski resort?**

4 A No.

5 **Q And where did you meet Mr. Meyer first?**

6 A I met John in South Cottonwood Canyon at
7 Tina Deweese's residence.

8 **Q Okay. So back before you went to grad**
9 **school?**

10 A Yes, and somewhere in 2009.

11 **Q And what was John doing in Bozeman at that**
12 **time?**

13 A He was running Cottonwood Environmental
14 Law.

15 **Q And did you just run into him at the**
16 **trail, is that what you're saying, or did you say at**
17 **a residence of your friend?**

18 A Yeah, I was working on -- I purchased a
19 piece of art from Tina and -- well, I exchanged my
20 labor for a piece of art from Tina. So I was at her
21 house working off the value of the art work. And
22 John was also there doing some work for them. So we
23 were working alongside each other and that's how we
24 met.

25 **Q And Mr. Meyer was a practicing attorney at**

1 **that time?**

2 A Yes.

3 **Q And he was working at Cottonwood Law at**
4 **that time?**

5 A Yes.

6 **Q And did you guys hang out a good deal from**
7 **2009 to whenever you started your M.A. in food**
8 **study?**

9 A Yeah. We met, like I said, in 2009. We
10 climbed a few times together that summer. And then
11 became good friends and remain good friends to this
12 day.

13 **Q And did you guys share just recreational**
14 **interest? Is that sort of one of the basis of your**
15 **friendship?**

16 A That's accurate, yeah.

17 **Q And what all kind of recreational**
18 **activities did you do with Mr. Meyer?**

19 A As I mentioned, we climb together. So
20 climbed in around Bozeman. We took a trip in
21 September of 2009 and climbed the Grand Teton. He
22 snowboarded at the time and I skied. So we skied
23 and snowboarded together primarily in the
24 backcountry. I don't believe he had a ski pass, so
25 I think most of that was in the backcountry in and

1 around the Bozeman area. Those are sort of the
2 primary activities.

3 Q Okay. And Mr. Meyer, did he have like a
4 splitboard or something that he was using at that
5 time to get into the backcountry?

6 A Yeah, initially we got a splitboard. And
7 then after substantial pressure from me, he
8 eventually caved and picked up some skis and was --

9 Q Okay.

10 A -- transitioned to that. I don't know --
11 I can't remember sort of how long he splitboarded
12 for and when he started skiing, but...

13 Q And backcountry skiing, that's where you -
14 - it's not lift service skiing; right?

15 A Correct.

16 Q So you have to travel into the forest and
17 basically climb up a mountain or a hillside --

18 A Yep.

19 Q -- on your own?

20 A Yes.

21 Q And you ski down, or for Mr. Meyer, he
22 snowboards down that mountain?

23 A Yes.

24 Q And there's no like avalanche control or
25 anything like that that anybody is responsible for

1 **except for the skiers?**

2 A Correct.

3 **Q And there's no terrain marking or warning**
4 **on the terrain; right?**

5 A No, I would say your previous question
6 there is public resources about avalanche
7 conditions, but there's no markings about the
8 terrain.

9 **Q Sure. And what you're talking about in**
10 **terms of public resources is basically avalanche**
11 **forecasting?**

12 A Yes.

13 **Q All right. But in terms of the decision-**
14 **making process for where you go and what risk you**
15 **take, those are all on the skier?**

16 A Correct.

17 **Q And how do you avoid injuries to yourself**
18 **while you are skiing in the backcountry?**

19 A You take the necessary precautions in line
20 with your level of risk that you're comfortable
21 with.

22 **Q And do you have to accept -- do you have**
23 **to accept personal responsibility for your own**
24 **safety when you're in the backcountry skiing?**

25 A Yeah, if you're by yourself, I mean, I

1 think there's a group dynamic component too where
2 they're depending on the individuals in the group.
3 There's -- hopped in there is chair responsibility
4 for the group safety as well.

5 **Q Sure. So your buddy or your ski partner,**
6 **or whoever, may help you make decisions?**

7 A Yeah, I think there needs to be consensus
8 on what that acceptable level of risk is and
9 discussion about what the perceived risks are. And
10 there has to be some sort of consensus there between
11 the party members to decide where you're going to
12 go, and what you're going to ski and what risks
13 you're willing to take on.

14 **Q Sure. And ultimately you are responsible**
15 **for reading the terrain?**

16 A Yes.

17 **Q And you are responsible for navigating**
18 **that terrain on your own?**

19 A Yes.

20 **Q And adjusting your ski if you're skiing or**
21 **snowboarding according to the terrain; right?**

22 A Correct.

23 **Q Without any sort of markings and warnings**
24 **on the terrain about sort of what it looks like.**

25 A Correct.

1 **Q** Do you have in front of you the share file
2 link that I sent you earlier this morning?

3 A Let me wake my computer back up.

4 **Q** Well, actually let me just ask you this.

5 Do you have in front of you a stack of
6 documents --

7 A Yes.

8 **Q** -- that the court reporter just grabbed?

9 A Yes.

10 **Q** And what is the document that's on the top
11 of that stack?

12 A The file name is IMG underscore 2074.png.

13 **Q** Okay. And is it just a stack of documents
14 that's not in a binder or anything like that; right?

15 A No, they appear to be alternately
16 stacked oriented horizontally and vertically.

17 **Q** Okay. And on the bottom of that stack can
18 you tell me what that document is?

19 A The number in the bottom right is Big Sky
20 946.

21 **Q** Let's go back to the computer. I don't
22 know how those are organized, unfortunately. Can
23 you bring up that share file link that I sent you
24 this morning?

25 A Yep.

1 Q And can you download those documents that
2 I sent you? Actually, let's just take a quick break
3 and go off the record and let's kind of deal with
4 this.

5 (Recess taken)

6 MR. MORRIS: Back on the record.

7 BY MR. MORRIS:

8 Q Trevor, we just took a quick break there.
9 Thanks for your help in getting those exhibits
10 organized. And I'd like to refer you to on the
11 share file link it's 002 SDT. And that's the
12 subpoena to produce documents.

13 A Okay. We have it in front of us.

14 Q Great. And let's mark that Exhibit 98.

15 So Deposition Exhibit 98 is a true and
16 correct copy of the subpoena to produce documents
17 that I sent to you; correct?

18 A Correct.

19 Q And if you would turn to Exhibit A, it's
20 on the final page of Exhibit 98, please?

21 A Okay. I'm there.

22 Q And you are familiar with Exhibit A?

23 A Yes.

24 Q And Exhibit A essentially requires you to
25 produce all of your communication, written

1 communication, of whatever kind or form between
2 yourself and Mr. Meyer or anyone acting on behalf of
3 Mr. Meyer from December 11, 2012, to the present;
4 correct?

5 A Correct.

6 Q And did you comply fully with the subpoena
7 and produce all of those documents that were
8 demanded?

9 A Yes.

10 Q And all the documents that you produced to
11 us, are they all true and correct copies of your
12 communications with Mr. Meyer?

13 A Yes.

14 Q And how did you go about locating
15 documents that were responsive to the subpoena, that
16 is, Deposition Exhibit 98?

17 A For the email communications I have a
18 gmail account. So I filtered my inbox and my sent
19 mail by those received by John or sent to John or
20 had John in the recipient line. And then I exported
21 all of those into a folder and attached them to
22 several emails as email attachments. And then sent
23 them to you all that way.

24 The text messages were a little trickier.
25 I was able to -- my personal laptop is synched with

1 my phone. And so I figured out that going back, I
2 don't know, certain period about a year, my laptop
3 had all the messages saved in the iMessages program
4 or application. So I copy and pasted. I highlighted
5 all of that, copy and pasted the entirety of what
6 was saved on the computer, what was available for
7 access there, into a Word document.

8 And then I went on to my phone and I made
9 multiple screen shots of all of the conversations
10 going back as far as I had record of. I took those
11 screen shots.

12 **Q Okay.**

13 A Uploaded them as digital image files to a
14 Google Drive account and then shared that as a
15 folder with you all.

16 **Q Okay. And did you look -- other than text**
17 **messages and emails, did you look for any other form**
18 **of communication, written communication, that you**
19 **had with Mr. Meyer that would be responsive to the**
20 **subpoena?**

21 A I believe I checked my Facebook Messenger
22 history and that was it.

23 **Q And you didn't find any Facebook**
24 **Messengers that you had that would be responsive to**
25 **the subpoena with Mr. Meyer.**

1 A No.

2 Q And is that because you have never
3 communicated with Mr. Meyer via Facebook Messenger
4 from 2012 to the present?

5 A Yes.

6 Q Okay. When you say yes, that's what you
7 are meaning, you have not communicated with Mr.
8 Meyer via Facebook Messenger; is that right?

9 A To the best of my knowledge and to the
10 records that I reviewed, I have never communicated
11 via Facebook Messenger with John.

12 Q Okay. And did you look on any other
13 platform besides Facebook?

14 A No.

15 Q Okay. Do you have an Instagram account?

16 A I do.

17 Q And have you ever communicated with Mr.
18 Meyer via Instagram?

19 A I've tagged him in posts before. I've
20 never privately communicated with him on that
21 platform.

22 Q Okay. What about Twitter?

23 A I do not have a Twitter account, no.

24 Q You don't have a Twitter account?

25 A Correct, I do not.

1 **Q And your text messages, they go back to**
2 **November of 2016; right?**

3 A Yes, correct.

4 **Q And earlier text messages that you may**
5 **have had with Mr. Meyer are no longer available to**
6 **you; is that right?**

7 A Correct.

8 **Q And they weren't deleted or anything like**
9 **that to your knowledge; right?**

10 A I have in the past gone through my
11 messages to try to create more memory on my phone.
12 I do not know with any confidence whether I've
13 deleted conversations with John. I think it's when
14 I have done that my memory of that is sort of
15 sitting idly somewhere killing time and trying to
16 create more space on my phone and sort of randomly
17 going through messages and trying to figure out if,
18 you know, there were things that I didn't care to
19 keep a record of, so.

20 **Q Okay.**

21 A Possible that -- it's possible that --

22 **Q I'm sorry.**

23 A Yeah, it's possible that text messages
24 between he and I were at some point deleted that
25 way, but there was no conscious decision to go in

1 and specifically delete conversations between John
2 and myself.

3 **Q Are you referring right now what you just**
4 **told me, are you referring primarily to or entirely**
5 **to text messages you may have had with Mr. Meyer**
6 **before November of 2016?**

7 A I'm aware that there's a gap as well in
8 the text messages. So that may explain that as
9 well, but whatever was saved on my phone. I also
10 received a new phone maybe three years ago, two or
11 three years ago. I don't know enough about how that
12 data transfers, how long iPhones maintain records
13 for things, but pursuant to the subpoena I
14 essentially opened the conversation and scrolled
15 back as far as there was record on my phone and
16 screen shot whatever wasn't captured on the computer
17 sync.

18 **Q Okay. In certain of the text messages**
19 **that you sent us, there's a reference to listserve**
20 **posts where Mr. Meyer wanted you to respond to**
21 **certain listserve posts that he had made or**
22 **otherwise commenting on a listserve post that he had**
23 **made. You didn't produce any of those listserve**
24 **posts; correct?**

25 A Correct, I'm smart enough not to get

1 involved with John's activity on the Bozone. That's
2 not of interest to me.

3 **Q What do you mean by that?**

4 A John in the past, I think there's several
5 examples where he's sent emails to that listserve
6 where they I think have been controversial. People
7 have responded, it's generated a lot of back and
8 forth discussion, different view points. He said
9 things that I think have been in disagreement with
10 some other general opinions. So I believe he's been
11 banned from the listserve in the past.

12 **Q Mr. Meyer's been banned from the Bozone or**
13 **listserve, is that what you're saying?**

14 A I don't know if he is currently banned.
15 I've heard that he was banned. I don't know.

16 **Q Okay. And that was for essentially**
17 **violating sort of the guidelines or rule of that**
18 **listserve is your understanding?**

19 A Yeah, there's a moderator who moderates
20 the listserve. It's a pretty broad audience and
21 broad eligibility requirements for what can and
22 can't be posted. So I think anybody who's banned
23 has been banned because they have violated whatever
24 those guidelines are.

25 **Q Does the moderator ban someone for just**

1 like one post that violates the guidelines or does
2 it take more than one?

3 A I don't know. I think that would probably
4 depend on the context and the content of the post.

5 Q And in terms of Mr. Meyer being banned, is
6 it your understanding that -- being banned is it
7 your understanding that he was banned because he had
8 multiple sort of instances where he violated the
9 guidelines or the rules for that listserve?

10 A I don't know.

11 Q And do you still have access to those
12 listserve?

13 A Yeah, I still am prescribed to the Bozone
14 listserve.

15 Q Have you ever posted in response to
16 anything that Mr. Meyer has posted on those
17 listserve?

18 A Not to my recollection.

19 Q Has he ever posted in response to anything
20 that you have posted?

21 A No.

22 Q And did you double check that listserve
23 for purposes of responding to the subpoena to see
24 whether or not there was some conversation between
25 you, Mr. Meyer?

1 A When I filtered my inbox it captured
2 listserve conversations so long as the person who
3 sent that email was John or myself, so.

4 **Q Okay.**

5 A It wouldn't have filtered if he was just a
6 recipient, but it did filter out ones where, you
7 know, if I had written it it would have shown up.
8 If I had written it to John then it would have shown
9 up or responded directly to an email that he had
10 posted.

11 **Q Got you. Do you have in front of you Big**
12 **Sky 898?**

13 **MR. MORRIS:** And, Breean, this is 005 on
14 the share file.

15 A Yes.

16 **Q And Big Sky 898, that's a true and correct**
17 **copy of a text message exchange that you had with**
18 **Mr. Meyer between September 30th, 2017, and October**
19 **3rd, 2017; correct?**

20 A Correct.

21 **Q Let's mark that as Deposition Exhibit 99,**
22 **please.**

23 **THE REPORTER:** Okay.

24 **MR. MORRIS:** Do we have it marked?

25 **THE REPORTER:** Yes.

1 **MR. MORRIS:** Thank you.

2 **BY MR. MORRIS:**

3 **Q** Deposition Exhibit 99, in this text
4 exchange on the left, the gray outside area that is
5 messages sent by Mr. Meyer; correct?

6 A Correct.

7 **Q** And on the right in blue those are
8 messages you sent to Mr. Meyer; right?

9 A Yeah, correct. Just as a note, it's a
10 black and white copy, so. What may be blue for you
11 is dark gray.

12 **Q** Sure. In any event on the right-hand side
13 is your messages to Mr. Meyer; right?

14 A Correct.

15 **Q** Thanks. And you and Mr. Meyer have
16 nicknames for each other. And he sometimes refers
17 to you as Trevorpus; correct?

18 A That's correct, yeah.

19 **Q** Okay.

20 A Is that the first time that that's come up
21 in a deposition?

22 **Q** Well, you know, these things happen.

23 So that is a nickname that he gave you
24 based on some sort of climb that you guys did in the
25 Tetons; right?

1 A Correct.

2 Q Okay. And then you refer to him sometimes
3 as Drizzle-Filth or something like that; is that
4 right?

5 A I have. I would say I don't really use
6 that nickname with nearly the frequency that he
7 refers to me as Trevorporus, so.

8 Q All right. Thanks. Fair enough.

9 So about the middle of Deposition Exhibit
10 99, there is a text message from Mr. Meyer dated
11 October 2nd, 2017, at 8:21 p.m. Do you see that?

12 A I do.

13 Q And Mr. Meyer is asking you to reply on
14 that Goals versus Tactics post. Do you see that?

15 A I do.

16 Q Do you recall what Mr. Meyer's Goals
17 versus Tactics post was?

18 A I do not.

19 Q Okay. Do you have any recollection at all
20 of what that post was about?

21 A I don't. I'm sorry.

22 Q Okay. You responded to Mr. Meyer's
23 request by saying that you'll have some time
24 tomorrow to send out a reply and that you had
25 something in mind; correct?

1 A Yes.

2 Q But you don't remember what that -- you
3 don't remember responding to that post.

4 A I don't, no.

5 Q And do you have a sense of what this was
6 posted on? Would this be on the Bozone board's
7 listserve?

8 A It's possible, yeah.

9 Q What other listserve or posts would it be
10 on if not on the Bozone board?

11 A It could have been a board communication,
12 Cottonwood board communication.

13 Q Okay. So the Cottonwood board submits
14 posts at times; is that right?

15 A Yeah. I mean, the language there I think
16 -- I don't think anybody's called it a post before.

17 Q Okay.

18 A Like internally there is not a language --
19 there's not a shared language internally among the
20 board of referring to emails as posts.

21 Q Okay. Could it be a Facebook post?

22 A Yes.

23 Q And do you have any recollection of a
24 Goals versus Tactics Facebook post that Mr. Meyer
25 made?

1 A I don't.

2 Q Did you look for that for purposes of
3 responding to the subpoena?

4 A I did not specifically look for that post.
5 I think I've described my efforts to review
6 potential social media, Facebook specific, Facebook
7 Messenger communications.

8 Q Can you please go through the Bozone
9 boards and the Facebook posts from that time period
10 after this deposition and produce, if you have it,
11 anything related to the post that's referenced in
12 this text message?

13 A Yes. Left me make a note I guess.

14 Q Okay. Will you turn to Bates -- do you
15 have in front of you Big Sky 909 through 910?

16 A Yes.

17 And let's mark that as Deposition Exhibit
18 100.

19 (Discussion held off the record)

20 MR. MORRIS: Back on the record.

21 BY MR. MORRIS:

22 Q So Deposition Exhibit 100 is additional
23 text messages exchanged between you and Mr. Meyer
24 and these are dated June 10, 2017, through looks
25 like June -- I'm sorry -- July 10, 2017, through

1 **July 14, 2017; correct?**

2 A 910 looks like it precedes 909. 910
3 starts June 13, 2017. And then 909 would come after
4 chronologically which goes to July 14, 2017.

5 Q Right. Thank you for that. Right. So
6 910 is chronologically before 909; correct?

7 A Correct.

8 Q Okay. And if you look at the bottom of
9 910. Do you see the text message where Mr. Meyer is
10 asking you to submit a declaration for net metering
11 case?

12 A Yes.

13 Q Okay. And then at the very bottom of 910
14 there is a text message that runs out with give me a
15 shout when you have. Do you see that?

16 A Yes.

17 Q Then if you go to 909, it doesn't look
18 like the entire text message has been captured;
19 right?

20 A Yeah, potentially. I mean, I don't know
21 that last text bubble could end with give me a shout
22 when you have and the next one could --

23 Q Do you have your phone with you today?

24 A I do.

25 Q Are you able to pull that up?

1 A Yeah, if you give me a second. Okay. I
2 have it here.

3 Q Okay. And are there text messages missing
4 between 910 and 909 that are shown on Deposition
5 Exhibit 100?

6 A The only -- no, the only thing that is
7 missing is that for some reason the screen shot cut
8 off the last word and the text bubble on 910. That
9 text message reads on my phone: Won't be much work.
10 Need an electronic signature. Give me a shout when
11 you have a minute. And then the following text
12 message appears at the top of 909. Just tried.

13 Q All right. Thank you.

14 So in these messages Mr. Meyer was asking
15 you to submit a declaration for this lawsuit about
16 net metering. Do you recall that metering case?

17 A Yes.

18 Q Who is being sued, if you recall?

19 A I believe it was the Public Service
20 Commission, but I'm not positive.

21 Q Okay. And was Mr. Meyer essentially
22 requesting that you be a representative plaintiff in
23 that lawsuit?

24 A That's my understanding.

25 Q And have you been a plaintiff in any other

1 **lawsuits, representative capacity or otherwise,**
2 **other than that in that net metering case?**

3 A I don't know. There may be one more, but
4 I don't have a specific recollection of it.

5 **Q And did you submit the declaration that**
6 **Mr. Meyer was requesting you to submit?**

7 A I believe I did, yes.

8 **Q Did you file other sworn statements with**
9 **the court in connection with that case?**

10 A No, I think there was one document that he
11 shared with me digitally which I reviewed and
12 signed. And that was my involvement.

13 **Q To your knowledge you have never been a**
14 **plaintiff in any other lawsuit; correct?**

15 A Like I said, there may be one or more
16 others, but not that I can specifically remember.

17 **Q Why do you not know if you were a**
18 **plaintiff in any other lawsuit?**

19 A The way Cottonwood is structured, it's a
20 member organization. And so John has often
21 undertaken lawsuits representing the members of
22 Cottonwood. And I'm not an attorney, I guess I
23 should say that first, so forgive my bastardization
24 of how this process works, but my understanding is
25 that in order to file a suit you have to prove that

1 somebody has been harmed in some way or there's some
2 grievance that's been suffered.

3 And so as a membership organization John
4 has used that structure to say, you know, if you
5 pollute the environment you're harming the members
6 of Cottonwood. And so they would be the ones who are
7 suffering that grievance. So the times he's asked
8 me to be -- to submit declaration has been in that
9 context.

10 So the Public Service Commission net
11 metering case, I was trying to increase the caps on
12 the amount of energy that individuals could sell
13 back into the grid. And I believe the argument there
14 was by them limiting that cap or by them providing a
15 cap, it's negatively impacting me as a Cottonwood
16 member because I can't then, you know, it limits my
17 ability to pursue solar electric generation at my
18 property if I had that desire.

19 So --

20 **Q Okay.**

21 A -- my lack of specific recall for a lot of
22 these things is because nothing has gone beyond
23 submitting a declaration like that. So it just
24 doesn't really stand out to me as I didn't have to
25 present myself at trial or really be involved in the

1 process beyond that.

2 Q Do you have a personal stake in the net
3 metering case?

4 A Yes.

5 Q Okay. What was that?

6 A Similar to what I described. It's, you
7 know, I think that that --

8 Q Okay. Let me just ask you this.

9 Did you have a solar panel or grid?

10 A No.

11 Q Okay. Did you purchase one and want to
12 put it up?

13 A No.

14 Q Did you look into purchasing one?

15 A At the time of submitting the declaration?

16 Q Yeah. Did you get an estimate from a
17 company for purchasing solar infrastructure --

18 A No.

19 Q -- for your home?

20 But you were a plaintiff in this lawsuit
21 about this issue, net metering?

22 A Yes.

23 Q And have you -- you said you may have been
24 a plaintiff in some other lawsuit; correct?

25 A I said that's a possibility, yeah.

1 Q And what other lawsuit do you think you
2 may have been a plaintiff in?

3 A I don't recall.

4 Q You don't have any recollection of what
5 other lawsuit that may be.

6 A No.

7 Q Okay. And in this particular incident Mr.
8 Meyer asked you to sign a declaration that was due
9 that same day; correct?

10 A Yes.

11 Q And you gave that to him and he thanked
12 you for the quick turnaround and he filed it with
13 the court; correct?

14 A Yes.

15 Q Can you find in front of you Big Sky 888
16 through 887?

17 MR. MORRIS: Is that number seven in the
18 share file?

19 MS. WALAS: Yes.

20 MR. MORRIS: Thank you.

21 A Yes, I have it here.

22 Q Great. Let's mark that 101. Deposition
23 Exhibit 101, please. And Deposition Exhibit 101 is
24 a continuation of text messages that you had with
25 Mr. Meyer; correct?

1 A Correct.

2 Q And if you look on page 888, the text
3 messages are dated December 18, 2017 -- I'm sorry.
4 They begin December 12, 2017, and continue through
5 December 18, 2017; right?

6 A Correct.

7 Q And then they jump on Big Sky 887 to
8 January 14, 2019.

9 A Correct.

10 Q And that's about a two-year gap in the
11 chronology there; correct?

12 A Correct.

13 Q And you sort of alluded to this earlier,
14 but --

15 A It's about --

16 Q I'm sorry. Did I cut you off?

17 A No, I'm just looking at this. I mean,
18 it's about a year gap, right?

19 Q Yeah, you're right. It is about a year
20 gap. It's about a year and a month gap. Thank you.

21 And you recall this is the way you
22 produced it to us?

23 A Yes.

24 Q And, in fact, before this deposition I
25 asked you about this gap; right, over email?

1 A Correct.

2 Q And you indicated to me that you had
3 produced all of the text messages that you have with
4 Mr. Meyer; right?

5 A Correct. When you sent that follow-up
6 email I went back into my phone and confirmed that
7 that's all the records that I have.

8 Q Okay. Do you know as you sit here today
9 why there's this one year gap in your text messages
10 with Mr. Meyer between December 18, 2017, and
11 January 14, 2019?

12 A I do not.

13 Q Okay. Do you recall deleting any text
14 messages in this time period?

15 A I do not.

16 Q You have no recollection of deleting them,
17 any text messages from this time period; is that
18 correct?

19 A That's correct. I mentioned earlier I
20 have in the past deleted message conversations on my
21 phone to create more space, so it is certainly a
22 possibility that when I've done that I may have
23 deleted conversations between John and myself. But
24 I don't have specific recollection of going in to
25 delete this conversation.

1 **Q Would you delete for any particular**
2 **purpose? In other words, were you deleting**
3 **selectively your text messages or were you just**
4 **deleting wholesale when you've been doing this**
5 **deletion process?**

6 A No, the latter. I mean, sort of
7 indiscriminately checking to see if there's
8 important information in the record of that
9 conversation that I wanted to keep, maybe photos or
10 videos that someone had sent me that I didn't want
11 to delete. Those would be the considerations that I
12 would be making when looking at whether to delete or
13 not.

14 **Q Okay. And you did delete messages prior**
15 **to December 12, 2017, until November 2016; correct?**

16 A Correct.

17 **Q And you didn't delete text messages post**
18 **January 2019; correct? January 14; correct?**

19 A Not to my knowledge.

20 **Q Has anyone ever directed you to delete**
21 **certain text messages you had with Mr. Meyer?**

22 A No.

23 **Q Or asked you to?**

24 A No.

25 **Q And you know, Trevor, that December 15,**

1 2017, was about the time that Mr. Meyer filed the
2 lawsuit for which we are here today, don't you?

3 A I was not aware of that, no.

4 Q You don't know that?

5 A I didn't know when he filed it, no.

6 Q Okay. Do you recall being copied on an
7 email to Taylor Middleton by Mr. Meyer informing
8 Taylor Middleton of Big Sky Resort that he was going
9 to file a lawsuit?

10 A I don't recall it. It may have happened.

11 Q Okay. You don't have any recollection of
12 that.

13 A No.

14 Q Okay. Do you recall that you did, in
15 fact, have text messages with Mr. Meyer between
16 December 18, 2017, and January 14, 2019?

17 A Yes.

18 Q And it's your testimony that those
19 messages have been deleted by you; correct?

20 A No. I mean, that would be my best guess
21 is the reason that they are no longer -- well, I
22 guess my best guess is that that gap exists because
23 I deleted those conversations in an attempt to
24 create more space on my phone.

25 It's also possible that those text

1 messages, we didn't communicate for that block of
2 time. I would say that's much less likely.

3 **Q And have you ever given your phone to Mr.**
4 **Meyer?**

5 A No.

6 **Q Okay. So it's not your testimony that Mr.**
7 **Meyer deleted these text messages, it would have**
8 **been you?**

9 A It would have been me, yes.

10 **Q Okay. And do you recall discussing in**
11 **text messages with Mr. Meyer his lawsuit against Big**
12 **Sky between December 12 -- I'm sorry, December 18,**
13 **2017, and January 14, 2019?**

14 A I don't have a specific memory of that. I
15 know generally I've texted with John about the
16 lawsuit, but I couldn't say that I have a specific
17 recollection of those conversations. I have a
18 knowledge that we have communicated about that in
19 that time frame, but that's as far as I would say.

20 **Q Okay. And just so I'm clear, in response**
21 **to the email that I sent you concerning this gap,**
22 **you looked at your phone and you confirmed for**
23 **yourself that there were no text messages in that**
24 **time period with Mr. Meyer; correct?**

25 A Correct. I was relatively annoyed about

1 having to produce all of the documents and not
2 having an efficient way to do so, so when I finally
3 put them all up and got the file sizes correct, I
4 was pretty excited to be done with that.

5 I received your email and was frustrated
6 that I may have missed something. So return to the
7 phone and confirmed that, in fact, there was that
8 gap in that communication.

9 Q Okay. Can you look at Big Sky 918 to 946,
10 please?

11 A Yes.

12 Q And let's mark Big Sky 918 to 946
13 Deposition Exhibit 102.

14 A Okay. It's marked.

15 Q Okay. And, Mr. Lowell, before we go on to
16 Deposition Exhibit 102, let me just ask you one
17 final question about this gap in your text messages.

18 Do you know when you deleted these text
19 messages?

20 A No. I have recollection of, you know,
21 several instances casually waiting for a bus or
22 something where I've gone through my phone to try to
23 create more space. So I don't have a specific --

24 Q Okay.

25 A -- recollection, no.

1 **Q** Okay. So moving on to Deposition Exhibit
2 102. That's a continuation of text messages that you
3 had with Mr. Meyer; correct?

4 A Correct.

5 **Q** And the reason that the format is
6 different for these text messages as opposed to the
7 other ones that we talked about today is because you
8 used a program on your computer to generate this
9 word -- as a Word document; is that right?

10 A Correct, I copy and pasted it from the
11 iMessages program on my Apple laptop which is
12 synched with my phone. So these are all the
13 messages that were saved on that program.

14 **Q** Okay. And unfortunately we can't see the
15 date or the time of any of these messages; right?

16 A Correct.

17 **Q** And do you have a way that you can use
18 that program that would show us the date or the time
19 that these messages were transpired?

20 A Not that I'm currently aware of. I think
21 the best way to get that information is to use the
22 same process for the other text messages. So screen
23 shot them, send them as image files.

24 **Q** When did you learn that you were named as
25 a witness in this case? I think we already talked

1 **about it, Mr. Meyer communicated with you, but when**
2 **was that, do you recall?**

3 A I think that was probably late July of
4 this year I received a text message from him.

5 **Q And do you intend to attend trial in this**
6 **case in Butte about the week of October 26, 2020?**

7 A I have not made a final decision about
8 that. My understanding is that there would be a
9 discussion. I do not have a desire to get onto a
10 plane given the global pandemic that is happening.
11 And so if it's possible to avoid that that would be
12 my preference above all.

13 **Q Okay. And do you have an understanding of**
14 **why you were named as a witness in this case?**

15 A My understanding is that I'm somebody who
16 has known John for a long time both before and after
17 his ski injury. And so I could speak to, you know,
18 his character, any impacts that I've observed
19 resulting from the injury. I was in the hospital a
20 few days after it happened so, and I'm a close
21 friend of his.

22 **Q Anything else?**

23 A No.

24 **Q Do you know anything about Mr. Meyer's**
25 **medical records related to his ski accident?**

1 A I know certain facts about what happened
2 to him. What, you know, some of the injuries he
3 sustained. As I said, I was in the hospital visiting
4 him soon after the accident occurred so have spoken
5 with his father at the time about the injuries. I
6 was living in Missoula when he was transferred to
7 the Community Hospital there for rehab and PT and
8 continuing care. So I was visiting him there. So,
9 yes, I would say I do.

10 Q Okay. Have you been apprised during the
11 course of this litigation of what medical record Mr.
12 Meyer has produced and when he has produced them?

13 A No.

14 Q And you don't have possession of any
15 medical record for Mr. Meyer relating to his ski
16 accident; correct?

17 A Correct.

18 Q You haven't provided to Mr. Meyer any
19 medical records for purposes of producing those to
20 Big Sky Resort in this litigation; right?

21 A I have not.

22 Q And same question with respect to medical
23 bills. Have you been apprised of what medical bills
24 Mr. Meyer has produced when during the course of
25 this litigation?

1 A No.

2 Q You don't have possession of any of his
3 medical bills; correct?

4 A No.

5 Q And you didn't assist Mr. Meyer in any
6 capacity with producing his medical bills; right?

7 A No.

8 Q And do you know anything about Mr. Meyer's
9 medical bills that you could testify to from your
10 personal knowledge at trial?

11 A I know that they were substantial and that
12 it caused a lot of financial harm and difficulties
13 for him and his family because of the amount of --

14 Q Okay.

15 A -- cost of treatment and...

16 Q And how do you know that his medical bills
17 were substantial?

18 A He told me.

19 Q Okay. Any other source of information for
20 that?

21 A Just general knowledge of the American
22 healthcare system.

23 Q And you are not an expert in medical
24 billing; right?

25 A No.

1 **Q And do you have an understanding of Mr.**
2 **Meyer's health insurance coverage that he had in**
3 **place at the time of his ski accident?**

4 A Not an in-depth understanding. I knew
5 that he was covered under the firm he was working
6 for at the time, but that's about as deep as my
7 understanding goes.

8 **Q Okay. You don't know at what rate his**
9 **insurance paid something or didn't pay something and**
10 **that sort of thing; correct?**

11 A Correct.

12 **Q So in terms of the financial impact of the**
13 **medical bills we just spoke of, how do you know**
14 **about that?**

15 A As I mentioned earlier in a conversation
16 with John and his father he's told me.

17 **Q Okay. Any other source of that**
18 **information about that financial impact other than**
19 **things that Mr. Meyer or his father have told you?**

20 A No.

21 **Q Do you consider John Meyer to be your best**
22 **friend?**

23 A I consider him to be one of my best
24 friends, yes.

25 **Q Okay. And you visited, like you just**

1 **said, Mr. Meyer in the hospital after his ski**
2 **accident that we're here for today in this case;**
3 **right?**

4 A Correct.

5 **Q And how long did you visit Mr. Meyer after**
6 **that, when he was in the hospital?**

7 A I believe he stayed maybe two nights, two
8 or three nights in the Billings area. And then
9 would, you know, come several times a day to his
10 hospital room, meet with him, staying at a nearby
11 hotel.

12 **Q And do you remember when that was?**

13 A It was fairly soon after his accident.
14 When I arrived at the hospital he was still
15 intubated and, yeah, in very serious condition. So
16 I don't know exactly how many days transpired
17 between when I arrived to visit him and when his
18 accident was, but it was maybe -- maybe three or
19 four days after the accident happened. I was in New
20 Hampshire at the time of the accident.

21 **Q Okay. So you flew out to Billings?**

22 A Yep, I was living in Missoula. I had
23 returned to New Hampshire for my then girlfriend's
24 30th birthday party. Received a phone call from
25 Tina Deweese while I was in New Hampshire informing

1 me of the accident. And then I left the next day on
2 a plane to return to Missoula. Drove to Bozeman,
3 picked up Tina and got a room at the hotel next to
4 the hospital.

5 **Q Okay. And what did Tina Deweese tell you**
6 **had happened?**

7 A I would not trust my, you know, direct
8 recollection of this, but the conversation was that
9 John had had an accident while skiing with Amanda at
10 Big Sky; that he had been Life Flighted to Billings
11 and was in the ICU and was unconscious in a coma.

12 **Q Anything else that you recall from that**
13 **conversation about what she told you happened in the**
14 **ski accident?**

15 A No, I think I captured it there. There
16 was probably some discussion about my travel plans
17 and how I may link up with her to visit him at the
18 hospital, but her understanding of the accident at
19 that point was just that he was in serious condition
20 and was either at Billings ICU or on his way and
21 that the accident had occurred at Big Sky Resort and
22 he was skiing with Amanda, his now wife.

23 **Q Okay. I'm sorry, did I cut you off?**

24 A Amanda, his now wife, for context.

25 **Q Right. Got it. And did you see Amanda**

1 **when you were in Billings visiting Mr. Meyer?**

2 A I did.

3 **Q And did you have -- did you talk with her**
4 **at all about what had happened?**

5 A I'm sure, yeah. I don't, again, I don't
6 have specific recollection of that conversation. We
7 were -- spent several hours with her and she was
8 there in the hospital room most of the time with
9 him, but I don't have recollection of specific
10 details.

11 **Q You don't remember what she told you about**
12 **how the wreck occurred?**

13 A I remember she told me that she didn't
14 really see it. I think that she came around and saw
15 him prostrate on the ground basically, but she
16 didn't have a visual recollection or actually see
17 exactly what happened.

18 **Q Okay. But she told you she didn't see it.**
19 **Did she tell you anything else about how Mr. Meyer's**
20 **wreck occurred?**

21 A No.

22 **Q Did she tell you that Mr. Meyer was skiing**
23 **fast that day?**

24 A No.

25 **Q She didn't mention that?**

1 A No.

2 Q Did she tell you of her belief that Mr.
3 Meyer had lost control uphill of a cat track and
4 then tumbled over it?

5 A No.

6 Q Did she mention anything to you about the
7 cat track at the base of the Highway run being
8 difficult to see on that day?

9 A Not that I recall.

10 Q Did you talk with Ron Meyer, John's
11 father, while you were in Billings?

12 A Yes.

13 Q And do you recall any discussions with him
14 about how Mr. Meyer's ski wreck occurred?

15 A Not specifically. Again, I would wager
16 that there were conversations about sort of what he
17 knew, but I don't have specific recollection of
18 details that we discussed.

19 Q Okay. And with Mr. Meyer, were you able
20 to speak with Mr. Meyer himself in Billings when you
21 were visiting Mr. Meyer in the hospital?

22 A There was very limited communication. I
23 mean, the first time that he was conscious in the
24 room with me he recognized me, but, you know,
25 couldn't -- couldn't really talk very well. Seemed

1 to be very confused. So, no, I mean, there was --
2 there was some small exchanges, but really nothing
3 of substance, because he wasn't really able to
4 communicate that well.

5 **Q Do you recall any discussion with anyone**
6 **while you were in Billings of any witnesses to Mr.**
7 **Meyer's ski wreck?**

8 A No.

9 **Q Okay. And I think you had said this**
10 **already, but you were living in Missoula at the time**
11 **of Mr. Meyer's ski wreck; right?**

12 A Correct.

13 **Q And Meyer was also living in Missoula; is**
14 **that right?**

15 A Yeah, he had recently moved there is my
16 memory.

17 **Q Okay.**

18 A He had taken a job with a law firm in
19 Missoula and had moved into an apartment downtown.

20 **Q Okay. And before taking that job in**
21 **Missoula, he was living in Bozeman; right?**

22 A Yes.

23 **Q And he was living in a yurt; is that**
24 **right?**

25 A John has lived in a yurt in the past for

1 substantial amount of time. I don't have an exact
2 recollection of sort of when he was in a yurt and
3 when he was in other -- living in other places.

4 **Q Is it your understanding that Mr. Meyer**
5 **lived in the yurt until the time that he moved to**
6 **Missoula?**

7 A Again, I'm not certain. That sounds
8 right, but I am not certain.

9 **Q Okay. And did you visit with Mr. Meyer at**
10 **his apartment in Missoula after he was released from**
11 **the hospital in Billings?**

12 A He was released from the hospital in
13 Billings and transferred to the hospital in
14 Missoula. I visited him at the hospital in
15 Missoula. And then visited him once he moved out of
16 that hospital into the apartment, back into his
17 apartment that he had rented prior to the accident.

18 **Q Okay. When did you visit him in the**
19 **hospital in Missoula, do you recall? Several times?**

20 A Yeah, maybe three or four times.

21 **Q And did you speak with Mr. Meyer in the**
22 **hospital in Missoula?**

23 A Yes.

24 **Q And what did he tell you about how his ski**
25 **wreck had occurred when you visited him in the**

1 **hospital in Missoula, if anything?**

2 A I don't remember a conversations specific
3 to that. You know, he was in a lot of pain and so
4 we talked a lot about at the time they didn't know
5 that he had also broken his arm. So I remember him
6 discussing how much his arm hurt and talking about,
7 you know, basically his condition and what was --
8 how he was doing, how he was feeling.

9 His father was there quite often too. So
10 I would meet with John and often sort of step
11 outside and talk to his dad. John was very tired
12 and often, you know, couldn't sustain conversations
13 for long periods of time. Couldn't sustain a lot of
14 activity and so they were often pretty brief
15 conversations.

16 He also was struggling to verbalize and to
17 vocalize a lot of things. So I think it was just
18 generally difficult. So the conversations were
19 pretty brief, how are you? How is it going today?
20 You know, what hurts? That type of thing.

21 Q Okay. And did you talk with Breean -- I'm
22 sorry. Did you talk with Amanda Eggert in Missoula
23 about how Mr. Meyer's ski wreck occurred?

24 A It's possible, yeah. I would think that I
25 would be curious as to sort of what she knew. So I

1 know at some point, you know, soon after the
2 accident whether it was in Missoula or Billings,
3 that I probably asked her what she knew of the
4 accident.

5 **Q What did she tell you? Have you already**
6 **gone over what all she told you?**

7 A I have, yeah.

8 **Q Did she tell you Mr. Meyer did not**
9 **remember his ski wreck?**

10 A I don't know. I don't know that.

11 **Q Did Mr. Meyer ever tell you that he didn't**
12 **remember how his ski wreck occurred?**

13 A I recall him talking at different points
14 about how the post-accident, his struggle to sort
15 of, you know, remember things and place things
16 chronologically, but I don't know specifically if he
17 said I don't remember the accident. I think he had
18 memory of many aspects of it. It seemed to be in
19 conversation he could talk about, you know, seeing
20 the -- yeah, I guess I don't -- I would say I don't
21 know specifically.

22 **Q So as I understand your testimony, at a**
23 **certain point Mr. Meyer talked to you about how he**
24 **believed the ski wreck occurred; correct?**

25 A Yeah.

1 **Q Okay. And he also told you at a certain**
2 **point that he didn't remember certain parts of the**
3 **day and the chronology of things; correct?**

4 A Yeah, I would say more broadly that he was
5 struggling just with general memory recall and with
6 cognitive function.

7 **Q Did he tell you that he couldn't remember**
8 **part -- the day on which his ski wreck occurred?**

9 A I don't know that he specifically said
10 that.

11 **Q He never, never told you that.**

12 A I don't know that he specifically said
13 that.

14 **Q That you recall?**

15 A Yeah, I mean, what we talked about was
16 sort of his general cognitive abilities and the
17 impact of the accident on that. And part of that --

18 **Q Okay.**

19 A -- discussion at different times was
20 memory recall.

21 **Q Okay. And when was the first time Mr.**
22 **Meyer spoke to you about how he believed his ski**
23 **wreck occurred?**

24 A I don't know. I think that, you know, the
25 immediate time after the accident he was pretty

1 messed up and so not communicating very well. So I
2 think, you know, probably his recollection of it,
3 that conversation, that he had came, you know, after
4 he was out of the Missoula hospital and a little
5 more able to communicate effectively and a little
6 more stable physically.

7 **Q Okay. So do you have a specific**
8 **recollection of that or are you just sort of trying**
9 **to place it in your own mind?**

10 A I don't have a specific recollection. I
11 recall not having a firm understanding of how the
12 accident happened for a while afterwards.

13 **Q Okay.**

14 A And then I don't know when specific
15 conversations may have happened between he and I, or
16 Amanda and I or his father, but I think those
17 details, you know, what I recall is those details
18 sort of getting filled in over time through
19 conversations with Amanda and through conversations
20 with John.

21 **Q Okay. And I think what you are telling me**
22 **is that you don't believe that any conversations**
23 **with Mr. Meyer about the nature or about how his ski**
24 **wreck occurred when he was in the hospital in**
25 **Missoula?**

1 A Not that I can specifically recall, no.

2 Q It would have been at a certain time after
3 that; right?

4 A That's my guess, yes.

5 Q And do you recall ever asking him, John,
6 what happened, how did this ski wreck occur,
7 something of that sort?

8 A I think it's very likely, yeah. I don't
9 remember a specific recollection of that, but...

10 Q Okay. And in a general way do you recall
11 what he told you when you asked him that question or
12 question to that effect?

13 A I remember the detail, the cat track. I
14 remember the detail of Amanda not seeing the actual
15 accident occur. And her coming upon him after the
16 fact. I remember the details of him being Life
17 Flighted. He felt like the ski patrol saved his
18 life. Yeah, that's what I recall.

19 Q Okay. You first said the detail of the
20 cat track. What did he tell you about a cat track?

21 A I don't know if it was John or if it was
22 Amanda. I just remember that I think that he --
23 that that was somehow either what he hit, or what
24 propelled him into the air or was a terrain feature
25 that was -- played a prominent role in his accident.

1 Q Okay. And to your recollection you don't
2 know whether or not John told you that or Amanda
3 told you something about a terrain feature; is that
4 right?

5 A Yeah, it would be one or the other. It
6 could likely be both.

7 Q Okay. But you don't have -- okay. So it
8 sounds like the details of this description of how
9 the accident or the ski wreck occurred were never
10 super clear to you or at least you don't have a
11 memory of them being described to you in a super
12 clear way; is that right?

13 A That's accurate.

14 Q Okay. So Mr. Meyer moved to Amanda
15 Eggert's place south of Big Sky in March of 2016;
16 right?

17 A That sounds correct, yeah.

18 Q And do you know why he moved from Missoula
19 to Amanda Eggert's place south of Big Sky?

20 A I think there was some -- couple of
21 factors involved. He lost his position at the firm
22 where he was working prior to the accident. He was
23 in a relationship that was developing and going well
24 with Amanda. So I think he wanted to be, you know,
25 to be closer to her and live with her that I think

1 is the primary reason that the decision was made.

2 **Q Okay. He lost his position with WildEarth**
3 **Guardians; is that right --**

4 A Yes.

5 **Q -- in March of 2016?**

6 A Yes.

7 **Q And what did Mr. Meyer tell you about him**
8 **losing his position with WildEarth Guardians?**

9 A The only thing I recall or know is that he
10 started with them pretty soon not -- not too far
11 before when he got in his accident. So he came on
12 and then had his accident and then was obviously out
13 on leave because he wasn't able to work anymore as a
14 result of that.

15 He was covered, I think, by the insurance
16 that they had or some partially covered, I'm not
17 sure. My recollection is that there was some
18 tension around whether he would be able to return to
19 work in full capacity, what that time frame would
20 be, how long the organization would support him on
21 medical leave.

22 And then I'm not sure how all those
23 different factors came together but those were the
24 underlying issues that I was aware of.

25 **Q And he told you all of those things were**

1 **factored into him being let go by WildEarth**

2 **Guardians?**

3 A Yeah, those are the details that I
4 remember about his leaving that organization or
5 being fired. I'm actually not even sure if the
6 decision was to fire him, or to let him go or he
7 left on his own accord. I couldn't speak to that.

8 **Q You don't know whether or not he was fired**
9 **or whether he resigned?**

10 A Correct.

11 **Q Did Mr. Meyer ever tell you he was fired**
12 **because WildEarth Guardians and his supervisor found**
13 **him to be unmanageable?**

14 A I don't have any recollection of that, no.

15 **Q He never told you that?**

16 A No.

17 **Q Okay. And so you don't know whether he**
18 **was fired, you don't really know why that separation**
19 **occurred; right?**

20 A I was aware of the details that I just
21 spoke about.

22 **Q Okay.**

23 A And I was aware of a general growing
24 tension between him and WildEarth Guardians, but
25 that was about it.

1 **Q Okay. What do you know about a growing**
2 **tension between Mr. Meyer and WildEarth Guardians?**

3 A What I previously stated, that he was a
4 new employee who then became -- was on leave and
5 unable to do his job because of an accident. And
6 while he was recovering there was discussions about
7 what his future with the organization would look
8 like, what he had the ability to do professionally
9 given his cognitive and physical issues. And that
10 that was sort of an ongoing discussion that seemed
11 to me from my vantage point was creating some
12 challenges for him and the organization.

13 **Q Sure. Did you ever talk with anyone at**
14 **WildEarth Guardians about why Mr. Meyer was**
15 **separated from that position?**

16 A No.

17 **Q Have you ever found Mr. Meyer difficult to**
18 **manage?**

19 A To manage?

20 **Q Sure.**

21 A I don't.

22 **Q Yeah. You worked with him at Cottonwood;**
23 **right?**

24 A Yeah.

25 **Q Have you ever found his style to be sort**

1 **of difficult to manage?**

2 A I would say that I think -- I don't find
3 him difficult to manage. I think he's very willing
4 to, you know, to work with the board, to receive
5 feedback, to adjust his goals and deliverables and
6 outcomes and all those things per conversations and
7 per board consensus. So no, I mean, as far as -- I
8 think that word manage I would say no.

9 **Q Okay. Find him to be a nonconformer?**

10 A How would you define -- again, I guess he
11 is somebody who has a reputation for being
12 nonconforming, sure. The man has lived in a yurt
13 for several years off the grid. He's, yeah, I think
14 that's accurate.

15 **Q And outspoken?**

16 A Certainly, yeah.

17 **Q And can sometimes rub people the wrong way**
18 **with his outspoken views; right?**

19 A Yeah, I think he is very blunt. He speaks
20 his mind and he doesn't hesitate to offer his
21 opinion about things.

22 **Q That's actually a point of pride for Mr.**
23 **Meyer that if he can sort of stir up conversation or**
24 **controversy about a certain issue, he feels like**
25 **he's leading?**

1 A I think he is interested in having honest
2 conversations and speaking directly to issues.

3 **Q Okay. Did Mr. Meyer ever tell you that he**
4 **blamed his firing by WildEarth Guardians on his ski**
5 **wreck?**

6 A I don't have a memory of him explicitly
7 saying that. I think that was something I
8 understood, you know, in the hypothetical if he had
9 not had a ski accident that it wouldn't, you know,
10 the following events wouldn't have led to him being
11 fired from that organization.

12 **Q So that's just sort of your sort of**
13 **interpretation of the event; Mr. Meyer never told**
14 **you that; right?**

15 A He never explicitly said that. I think we
16 had conversations about the challenges that the ski
17 accident had on his position at the organization.
18 So it's, you know, I would deduce from all those
19 conversations and the reality of the situation that
20 the ski accident had a relatively direct impact on
21 his employment there.

22 **Q Sure. Again, that's just you sort of**
23 **deducting based on information that was provided to**
24 **you about Mr. Meyer; right?**

25 A Correct.

1 **Q Okay. I think we talked earlier that Mr.**
2 **Meyer was fired from WildEarth Guardians in March of**
3 **2016; right?**

4 A Yeah, I don't -- that sounds right. I
5 trust that date. It sounds about right.

6 **Q Okay. And do you know that Mr. Meyer was**
7 **actually backcountry skiing again in March of 2016;**
8 **right?**

9 A I know that he returned to the sport that
10 same winter, yeah.

11 **Q Right. In March.**

12 A Yeah, that sounds right.

13 **Q And he was skiing in the Pioneer**
14 **Mountains? Do you recall he was skiing backcountry**
15 **skiing in the Pioneer Mountains in March of 2016.**

16 A The memory that I have that confirms that
17 he was skiing again was I think he took a trip with
18 Amanda to the Beartooths at some point. So I don't
19 have a specific memory of his trip to the Pioneers,
20 but...

21 **Q Okay. Will you look at Big Sky 823**
22 **through 824?**

23 **MR. MORRIS:** And, Breean, this is file 34.

24 **BY MR. MORRIS:**

25 **Q And, Trevor, this is probably -- this**

1 could very well could be towards the back of your
2 file. It's an email with a Bate stamp Big Sky 823
3 on the front.

4 A Okay. I have it here.

5 Q Let's mark that as Deposition Exhibit 103.

6 And Deposition Exhibit 103 is a true and
7 correct copy of an email exchange with Mr. Meyer and
8 including you dated March 30th, 2016; correct?

9 A Correct.

10 Q And does that refresh your recollection
11 about Mr. Meyer's backcountry skiing in March of
12 2016 in the Pioneer Mountains?

13 A Yes, he says here, got out backcountry
14 skiing last weekend in the Pioneers. So good to be
15 back in it.

16 Q Right. And he also was responding at the
17 bottom of the page there to an email from Kelly
18 Nokes at WildEarth Guardians; right?

19 A Yeah.

20 Q He's volunteering to help do the station
21 take-out in April 2016; correct?

22 A Yes.

23 Q And as part of that wolverine monitoring
24 station take-out, they were also going to go and ski
25 on the South Bowl; correct?

1 A Looks like there is discussion of
2 hopefully being able to take a few turns on the
3 South Bowl.

4 Q Correct. And Mr. Meyer in March of 2016
5 was already keen on engaging in both of those
6 activities; right?

7 A Yes.

8 Q So you are not contending that in March of
9 2016 Mr. Meyer was physically unable to tend to his
10 job with WildEarth Guardians, are you?

11 A No.

12 Q And I think you just spoke about this, but
13 in the summer of 2016 Mr. Meyer was also skiing what
14 he just mentioned in the Beartooth Mountains;
15 correct?

16 A Yeah, I remember him telling me about that
17 trip.

18 Q Right. Can you locate Big Sky 748? I
19 guess it's 748 through 749.

20 MR. MORRIS: And, Breean, this is number
21 nine, file number nine in the shared file.

22 A Is it an email or text message?

23 Q Yeah, it's another email. It's dated
24 September 2nd, 2016. The subject of the email is D-
25 filth. Big Sky email 748 to 749.

1 **What we can do is bring it up on the share**
2 **file.**

3 A Document nine?

4 **Q Correct.**

5 A Okay. I have it brought up here.

6 **Q Okay. It's got the Bate stamp on it, Big**
7 **Sky 748 through 749; correct?**

8 A Yeah.

9 **Q Okay. And we will mark that Deposition**
10 **Exhibit 104. We might not physically mark that now,**
11 **but we'll have the court reporter mark it later.**

12 I'm going to refer to it as Deposition
13 **Exhibit 104.**

14 A Okay.

15 **Q And Deposition Exhibit 104 is a true and**
16 **correct copy of an email exchange dated September**
17 **2nd, 2016, between Mr. Meyer and yourself; correct?**

18 A Correct.

19 **Q Mr. Meyer in September of 2016 is**
20 **informing you that he is training for climbing;**
21 **right?**

22 A Yeah, he says training for climbing.
23 Managed a whopping two pull-ups yesterday.

24 **Q Right. And what he is saying is that he's**
25 **training for rock climbing; correct?**

1 A I would assume that. We've also
2 mountaineered together, so one could argue
3 semantically --

4 Q Okay.

5 A -- I guess you could train for --

6 Q Sure. So it could have been technical
7 rock climbing with gear and ropes, that sort of
8 thing, or it could be mountaineering. In other
9 words, bagging high mountain peaks and that sort of
10 thing; correct?

11 A Yes.

12 Q And he is also telling you about -- he is
13 saying he can't remember if he told you that he fell
14 when he was skiing in the Beartooths; right?

15 A Yes.

16 Q And this ski accident that he had in the
17 Beartooths he told you that he had fell about 500
18 feet in that fall; correct?

19 A Yes, that's what he said in that email.

20 Q And he broke his ribs; right?

21 A Yes.

22 Q And he messed up his knee pretty bad he
23 told you; right?

24 A Yes.

25 Q Did you guys talk about that fall in the

1 **Beartooths outside of this email exchange that you**
2 **recall?**

3 A It's possible. I don't have a specific
4 recollection of it.

5 Q Have you ever taken a fall while skiing in
6 the backcountry that was 500 feet?

7 A I have not, no.

8 Q That's a pretty significant ski wreck, is
9 it not?

10 A Yeah, I mean, I think depending on the
11 fall. People have fallen and slidden 500 feet and
12 come to a gentle stop, but...

13 Q Sure. But if you break your ribs and you
14 mess up your knee in a 500-foot fall, do you agree
15 with me that that's a serious fall; right?

16 A Yes.

17 Q Did Mr. Meyer ever tell you where in the
18 Beartooth Mountains that he was skiing when he had
19 this fall?

20 A No.

21 Q And this is about ten months after the ski
22 wreck that he had at Big Sky; correct?

23 A Correct.

24 Q Mr. Meyer also texted with you about this
25 ski wreck and informed you that in this fall in the

1 **Beartooth he had damaged his lungs. Do you recall**
2 **that?**

3 A Is it documented? Could you point me to
4 it? I don't have a specific memory of that text, but
5 I don't --

6 **Q Okay.**

7 A -- deny that --

8 **Q Sure. Do you recall him telling you,**
9 **without looking at any document, that he had**
10 **experienced breathing trouble ever since the fall**
11 **that he took in the Beartooth?**

12 A I certainly remember him talking about
13 breathing difficulties. That was an issue, we had
14 gone out, I think, on a mountain bike ride at some
15 point. And he was -- he was prior to the accident
16 was a very physically fit person and it was always a
17 struggle for me to keep up with him. And it was
18 something that we had talked about and I experienced
19 personally is that after the accident he had a lot
20 of issues breathing. I think he had mentioned COPD
21 or something at some point.

22 **Q Right. And when you are saying the**
23 **accident, you are talking about the ski wreck that**
24 **he had in the Beartooth in the summer of 2016;**
25 **right?**

1 A I don't -- no, I mean, I'm talking about I
2 think generally his accident at Big Sky was my
3 understanding.

4 Q Okay. Okay. Well, let's do this then.
5 Let's look at Big Sky 906 which is, if you can find
6 it in front of you that would be great. But if you
7 can't we'll pull it up on the share file. This is a
8 text exchange.

9 A Yeah, I have it here.

10 Q Okay. Let's mark that Deposition Exhibit
11 105.

12 And here also, Trevor, will you pull up on
13 that share file the document that's marked 010 and
14 it's IMG 2092.

15 A It's another text message?

16 Q Correct.

17 MS. WALAS: Will you repeat that number,
18 Mac?

19 I didn't catch the last part of it.

20 MR. MORRIS: Sure. It's file number ten,
21 but it's an image file as opposed to a PDF. And
22 it's IMG underscored 2092.

23 A I have it here.

24 Q Okay. And in Deposition Exhibit 105 Mr.
25 Meyer is telling you that I have been having

1 breathing trouble since that ski accident last
2 summer; correct?

3 A Yes.

4 Q Right. And what he is saying there is
5 that he is associating his skiing accident, his
6 breathing troubles, with the skiing accident in the
7 summer; right?

8 A Yes.

9 Q Right. And not the ski wreck that he had
10 at Big Sky Resort; correct?

11 A I think it's a fair assumption if he's
12 specifically saying last summer and his Big Sky
13 accident happened in December, then, yeah.

14 Q Right. And if you would look now at that
15 image that you have open on your computer there,
16 that file number ten image 2092. Do you have that
17 open?

18 A I do.

19 Q Is that the continuation of the texting
20 exchange that you had with Mr. Meyer that
21 represented Deposition Exhibit 105; right?

22 A It appears to be, yeah.

23 Q Right. And this is where Mr. Meyer is
24 telling you that his doctors told him that he had
25 symptoms, they are similar to COPD; correct?

1 A Yes.

2 Q That was in -- and this text exchanged
3 occurred in or around August of 2017; right?

4 A Yes.

5 Q In addition to skiing in the Pioneer
6 Mountains in March of 2016 and then skiing in the
7 Beartooth Mountains in the summer of 2016, Mr. Meyer
8 was skiing in the winter of 2016 as well, wasn't he?

9 A Can you repeat that?

10 Q Mr. Meyer was skiing in the winter of
11 2016. Do you recall that?

12 A Wasn't that when the Pioneer trip was
13 discussed?

14 Q The Pioneer trip was in March of 2016.
15 I'm now referring to the winter of 2016/17 and Mr.
16 Meyer skiing in that winter.

17 A So the following ski season?

18 Q Correct.

19 A Okay. Yeah, I believe, yeah. That sounds
20 true.

21 Q Do you know that he had purchased a pass
22 to the Snowbowl Ski Resort in Missoula for that
23 winter?

24 A Yeah, I believe so.

25 Q And did you and Mr. Meyer ski at Snowbowl

1 **in the winter of 2016 together?**

2 A Yeah, I would assume so. My hesitation is
3 the chronology of everything. I think that's
4 accurate though, yeah.

5 Q Okay. Well, and do you recall that he
6 bought an annual ski pass at Snowbowl that year?

7 A Yeah, it sounds right.

8 Q Okay. In May of 2017 do you recall skiing
9 with Mr. Meyer in Glacier National Park backcountry
10 skiing?

11 A Yep, we took a trip up there as a sort of
12 bachelor party, he and I. He was getting married
13 and so we went up and skied one of the glaciers.

14 Q Okay. And I think you're probably
15 referring to 2018, and I'm focused on the summer or
16 spring of 2017. Do you recall a trip with Mr. Meyer
17 in Glacier in the spring or early summer of 2017?

18 A I don't. If you have something to point
19 out it might help.

20 Q Sure. Will you bring up, if you can in
21 front of you, Big Sky 913.

22 A Okay.

23 Q Let's mark this as Deposition Exhibit 106.

24 And Deposition Exhibit 106 is a true and
25 correct copy of a text exchange that you had with

1 **Mr. Meyer in May of 2017; correct?**

2 A Correct.

3 **Q And Mr. Meyer is asking you do you want to**
4 **ski with him on May 24 up in the Glacier; right?**

5 A Correct.

6 **Q And do you recall now going on a trip with**
7 **him to Glacier to ski in May of 2017?**

8 A I don't. I don't -- I'm not sure that
9 that trip ever happened.

10 **Q Okay. In any event, Mr. Meyer was at**
11 **least keen on doing that and inviting you to go**
12 **backcountry skiing in Glacier in May of 2017?**

13 A Yes, that was his -- he asked if I would
14 be interested in doing that.

15 **Q Right. And did you and Mr. Meyer take a**
16 **trip into the Bob Marshall Wilderness in September**
17 **of 2017 for backpacking?**

18 A No, that trip was part of my bachelor
19 party. It was a plan to do a multi-day backtrack
20 trip with John and other members of my wedding
21 party. That was a pretty tough fire year and we had
22 planned to do it in the Bob. We had to cancel those
23 plans. We moved it to a trip in the Mission
24 Mountains. We had to cancel those plans. We moved
25 it to a trip in the Cabinet Mountains and at that

1 point John couldn't attend.

2 **Q Okay.**

3 A So there were several of us who ended up
4 going camping in the Cabinets, but John wasn't able
5 to come.

6 **Q Okay. Can you tell me about the plan that**
7 **you had made for backpacking in the Bob Marshall**
8 **Wilderness in September of 2017? Was that a four-**
9 **day backpacking trip?**

10 A Yeah, it sounds right. It would have been
11 three or four days. I think I had looked at
12 initially doing a loop route in the Scapegoat
13 section of the Bob Marshall, hiking along sort of
14 different river corridors and fishing along the way.

15 **Q Okay. And do you know about how many**
16 **miles you all were planning to hike and backpack**
17 **during those four days?**

18 A It was probably between 30 and 45.

19 **Q Okay. Mr. Meyer never expressed to you**
20 **any reservation about doing that as a result of any**
21 **injury he suffered; correct?**

22 A No.

23 **Q You said something a moment ago about Mr.**
24 **Meyer's bachelor party. Do you recall that**
25 **testimony?**

1 A Yes.

2 Q And that was in August of 2018, do you
3 recall that?

4 A Yeah, that sounds accurate.

5 Q What did you and Mr. Meyer do for his
6 bachelor party in August of 2018?

7 A He met me in Missoula. And we drove up
8 together to Whitefish and we rode a loop trail. We
9 rode the Reid Divide Trail on mountain bikes. After
10 we did that we camped outside of Glacier just at a -
11 - on some Cora service land, sort of pulled off and
12 I slept in the truck. He slept on the ground.

13 And we woke up the next morning and we
14 hiked up to the Salamander Glacier with skis. And
15 we -- he skied probably the bottom third of that. I
16 skied the entire thing and then we hiked out. And
17 then we returned that same day to Missoula.

18 Q Okay. Was it just the two of you?

19 A Yeah.

20 Q And how much elevation gain did you guys
21 get for skiing the south -- I'm sorry, was it
22 Salamander Glacier?

23 A Yeah, I don't know. We started at the, I
24 believe, the Mini Glacier Trailheads there. And
25 then I don't -- I'd have to look it up.

1 **Q** Okay. And you guys were also mountain
2 biking on that trip; correct?

3 A Correct, the day before we mountain biked.

4 **Q** And how many miles did -- was your
5 mountain bike, do you recall?

6 A It was a several-hour trip, so I would
7 guess, you know, somewhere between 10 and 20 miles.

8 **Q** Okay. Can you pull up Big Sky 575. And
9 this is an email exchange between you and Mr. Meyer
10 with the subject, bachelor party contact list.

11 (Discussion held off the record)

12 **MR. MORRIS:** This is a good point as far
13 as I'm concerned. We can stop here and go off.

14 Thank you.

15 (Lunch recess)

16 **MR. MORRIS:** Back on the record.

17 **BY MR. MORRIS:**

18 **Q** Before the lunch break, Trevor, we were
19 going to talk about Deposition Exhibit 107. Do you
20 have that in front of you?

21 A Is that Big Sky 575?

22 **Q** Correct.

23 **MR. MORRIS:** And was that actually marked?

24 **THE REPORTER:** No, but I have the sticker
25 ready.

1 BY MR. MORRIS:

2 Q So, Trevor, do you understand that even
3 though we took a break and had lunch you are still
4 under oath; right?

5 A Yes.

6 Q So Deposition Exhibit 107 is an email
7 exchange between you and Mr. -- I'm sorry, between
8 you and Mr. Meyer in August 6, 2018; correct?

9 A Yes.

10 Q And the subject is bachelor party contact
11 list; right?

12 A Yes.

13 Q And Mr. Meyer is providing you with some
14 names of people that he wanted to invite to his
15 bachelor party; right?

16 A Correct, names and phone numbers.

17 Q Right. And he indicates there that given
18 the short notice I think we will be lucky to have
19 four of us including you and I; right?

20 A Correct.

21 Q In fact, you testified earlier that it was
22 only you and Mr. Meyer who went on this trip to
23 Glacier National Park for Mr. Meyer's bachelor
24 party; right?

25 A Correct.

1 **Q And so the bachelor party was really the**
2 **subject of last minute planning; is that accurate?**

3 A Yeah, I guess that's accurate.

4 **Q Okay. And as of August 6, 2018, the plan**
5 **for this bachelor party weren't even finalized;**
6 **right?**

7 A Correct.

8 **Q And you and Mr. Meyer weren't sure if**
9 **anyone else would attend it other than you and him;**
10 **right?**

11 A That's what he's indicating in this email
12 is that it's short notice and so it may be difficult
13 to have others commit.

14 **Q Right. And were you even sure that the**
15 **bachelor party would go forward at all at this time?**

16 A I can't really speak to my mindset going
17 back. I think there was --

18 **Q Okay.**

19 A -- some conversations about what it would
20 look like. There was some attempt to contact a lot
21 of folks and see what their capacity was. The plans
22 kept evolving until we realized that it wasn't
23 possible to pull everybody together. And so John
24 and I made the decision to go for the weekend trip
25 up to Glacier.

1 **Q Okay. So, in other words, like you just**
2 **said, the plans of this bachelor party were sort of**
3 **constantly evolving, in fact, revolving even after**
4 **this August 6 email that he sent; right?**

5 **A Correct.**

6 **Q And you and Mr. Meyer also planned in June**
7 **of 2019 to climb Mount Rainier in Washington; right?**

8 **A Yeah, there were other people that were**
9 **part of that plan and part of that trip. I did not**
10 **end up attending that.**

11 **Q Right. But Mr. Meyer was a part of that**
12 **trip that actually did go on it; correct?**

13 **A They did go. They did not attempt to**
14 **climb Mount Rainier.**

15 **Q They were stormed off?**

16 **A That's my understanding, yeah.**

17 **Q Right. But in any event it was Mr.**
18 **Meyer's plan as early as June 2019 to summit Mount**
19 **Rainier; correct?**

20 **A That was the goal of that trip initially,**
21 **yes.**

22 **Q Right. And camp at high elevation?**

23 **A Yeah, I believe that there was a plan to**
24 **camp. I forget which -- I think the Emmons Glacier**
25 **Route, which I'm not terribly familiar with, but a**

1 typical trip would be two days up, one day down.

2 **Q Did that involve some skiing on the**
3 **glaciers as well typically, was that part of the**
4 **plan?**

5 A That was discussed as part of the plan,
6 yeah. I don't know where -- if that idea got dropped
7 or if it was still the plan by the time they got
8 stormed off, I'm not sure.

9 **Q Mr. Meyer has often told you that he**
10 **recently ran a marathon; correct?**

11 A That sounds familiar. I don't know if you
12 can point to some communication.

13 **Q Sure. Do you recall him telling you that**
14 **he was going to run the Devil's Backbone Marathon?**

15 A Yeah, I think I remember it from looking
16 through these documents seeing that.

17 **Q Okay. Okay. And do you know anything**
18 **about the Devil's Backbone Marathon?**

19 A I believe it's considered an ultramarathon
20 wherein that sort of category of events that
21 involves running along the ridge of the Hyalite
22 Range. I think that's accurate.

23 **Q Right. So in order to do the Devil's**
24 **Backbone Marathon, that's more than 26 miles; right?**

25 A I don't know, but that sounds correct.

1 Q And it's on a trail?

2 A Yes.

3 Q It's mountains; right?

4 A Yes.

5 Q Have you ever skied the Banana Couloir on
6 Ross Peak?

7 A No.

8 Q Are you -- do you recall Mr. Meyer
9 informing you that he recently skied on Ross Peak at
10 the Bridger Range?

11 A Yes.

12 Q And that specifically he skied the Banana
13 Couloir.

14 A That's what he told me.

15 Q So prior to Mr. Meyer's job with WildEarth
16 Guardians he was working for Cottonwood
17 Environmental Law Center; right?

18 A Yes.

19 Q And he held that position from around
20 2010; is that your recollection?

21 A I don't know. I would -- my recollection
22 is when I met John he was in that position which
23 would have been the summer of --

24 Q Okay.

25 A -- 2009, but that may or may not be

1 accurate. That's just my -- I think the entire time
2 I've known John he's been involved with Cottonwood.

3 Q Okay. And did you ever meet his law
4 partner at that time Percy Bennett?

5 A I may have met her once or twice.

6 Q Excuse me.

7 (Telephonic interruption)

8 Q Sorry about that. Go ahead.

9 A Yeah. I mean, the name is familiar. I
10 likely met her once or twice. I don't have a strong
11 memory of that.

12 Q And you understood at that time from
13 around 2010 when he took -- to about 2014 Percy
14 Bennett was his law partner at Cottonwood; right?

15 A I understood that she was an attorney
16 working for Cottonwood alongside John.

17 Q Okay. Do you know when she left
18 Cottonwood?

19 A I couldn't, no.

20 Q Okay. Did Mr. Meyer ever tell you
21 anything about Percy Bennett leaving Cottonwood?

22 A I'm sure. I don't have a specific
23 recollection of him telling me anything.

24 Q Do you have a general recollection?

25 A My general recollection is that she was

1 working for Cottonwood as a staff attorney and then
2 was no longer at some point.

3 **Q Do you recall him telling you anything**
4 **about a rift in their relationship?**

5 A No, not specifically.

6 **Q What about more generally?**

7 A I don't have a specific memory of that.

8 **Q Okay. Right. But do you have a general**
9 **memory?**

10 A No.

11 **Q Do you have a recollection of Mr. Meyer**
12 **struggling with the work at Cottonwood after Percy**
13 **Bennett left the firm?**

14 A No.

15 **Q So after Percy Bennett left do you have**
16 **any recollection of Mr. Meyer expressing to you that**
17 **he was encountering difficulty with Cottonwood?**

18 A What sort of difficulties?

19 **Q Running it, organizing it, getting**
20 **donations, getting cases going, anything of the**
21 **sort.**

22 A My recollection and awareness is that
23 Cottonwood has always struggled as a nonprofit for a
24 variety of reasons. There hasn't ever really been a
25 lot of capital reserves. There hasn't, yeah.

1 So I can't say I have any specific
2 recollection of that being associated with Percy
3 Bennett leaving Cottonwood. I just know that
4 generally over the years the nonprofit has faced
5 several challenges.

6 **Q Right. And that occurred, you know, even**
7 **before Percy Bennett left; is that your**
8 **understanding, that the nonprofit was struggling?**

9 A Yeah, I don't know that I have that level
10 of detail. You know, my involvement --

11 **Q Okay.**

12 A -- with the board is more recent and
13 that's really one I've had more exposure to the
14 financials and the finer details of the
15 organization. I just know through conversations
16 with John and through our friendship that it's been
17 a challenge to maintain the organization for a
18 number of reasons.

19 **Q Sure. And what did he tell you about why**
20 **he wanted to shut down Cottonwood Law temporarily**
21 **and take the job and move to Missoula for WildEarth**
22 **Guardians?**

23 A I think it was appealing to him because it
24 was working for an established organization where he
25 wouldn't have to handle a lot of challenges of being

1 an executive director of a nonprofit while also
2 trying to manage all of the legal work associated
3 with Cottonwood's operations.

4 So the idea that he could go to the
5 office, he could be a salaried or hourly employee
6 who'd get benefits and he could, you know, have all
7 those structures in place in a formalized work
8 environment I think was something that was appealing
9 to him.

10 **Q John Meyer testified in this case that he**
11 **is a recovering alcoholic and that he was for a time**
12 **addicted to recreational drugs.**

13 **MS. WALAS:** Objection; the judge has ruled
14 this is inadmissible at trial.

15 **MR. MORRIS:** Okay.

16 **BY MR. MORRIS:**

17 **Q And do you know anything about Mr. Meyer's**
18 **alcohol or drug addiction?**

19 A I know that John has been sober for
20 several years. He is very committed to the AA
21 community. He is very serious about his sobriety.

22 When I first met John he was drinking. He
23 was, you know, he didn't appear to have a drinking
24 problem, but I think that that's a subjective
25 judgment especially for a lot of people in their mid

1 20s and 30s that live in mountain towns.

2 So I didn't know John. I didn't flag him
3 as an alcoholic as I knew him personally, but he's
4 been very committed and very proud of his sobriety
5 and the community that he's sort of been engaged
6 with through that.

7 **Q Okay. And do you know anything, other**
8 **than what you told me about his drinking, do you**
9 **know anything about his drug abuse?**

10 **MS. WALAS:** Objection; same judge's ruling
11 as being inadmissible.

12 **Q You can answer.**

13 A I can or I have to? I mean...

14 **Q Yeah, I mean, you have to answer. There**
15 **has been an objection to the relevance of this, but**
16 **the question is: Do you know anything about Mr.**
17 **Meyer's drug abuse?**

18 A What I know about John's drug use, when I
19 met him he didn't do any drugs besides drink
20 alcohol. He has told me stories about his college
21 years at the University of Montana as an
22 undergraduate. And I, you know, he used to smoke a
23 lot of marijuana and ingest hallucinogenic mushrooms
24 and that's about all I know.

25 **Q Okay. And you've never witnessed him**

1 smoke marijuana?

2 A No, no, I haven't.

3 Q Okay. You've never witnessed him take
4 psychedelic mushrooms, for instance --

5 A No.

6 Q -- or any other psychedelic drug?

7 A No.

8 Q Did Mr. Meyer ever explain to you what the
9 catalyst for him joining AA was?

10 MS. WALAS: Can I have a continuing
11 objection on this line, Mac?

12 MR. MORRIS: For sure.

13 MS. WALAS: All right.

14 A I don't know what the catalyst was. I
15 don't know if he just got to a point where he wanted
16 to take it on and, but, yeah, I don't know.

17 Q Okay. And do you know when Mr. Meyer
18 started taking to get to sober and committing
19 himself to sobriety?

20 A I don't have an exact date. I know he has
21 been sober for, I think, five years or more, but I'm
22 not certain.

23 Q Okay. Do you know if that decision had
24 anything to do with struggles with Cottonwood?

25 A I don't know.

1 **Q He never talked to you about that.**

2 A No. My knowledge of John's decision to
3 pursue sobriety, I think, was more based in
4 relationship issues and lifestyle issues. So he was
5 someone really focused on fitness, on mental and
6 physical health. He, you know, had a number of
7 girlfriends over the years and I think that his
8 drinking was undermining his health goals and was
9 complicating his relationship goals. I never heard
10 him talk about drinking impacting his ability to run
11 or work for Cottonwood.

12 **Q Okay. So we touched on this, but**
13 **Cottonwood has to your knowledge always been a**
14 **nonprofit organization; right?**

15 A Yes.

16 **Q And the way it operates is through**
17 **donation and it gets funding from attorney fee**
18 **awards that Mr. Meyer may get in lawsuits against**
19 **the government; is that right?**

20 A Yes, that's been the primary source of
21 revenue for the organization. At least in the years
22 that I've been involved.

23 **Q There have been certain grants that the**
24 **organization has gotten; correct?**

25 A Yes.

1 **Q And how many grants can you recall**

2 **Cottonwood getting since your time on the board?**

3 A This is a guess. I would say maybe five,
4 but I'm not -- I'm not certain.

5 **Q Okay. Do you know about -- what would you**
6 **estimate the sum total of those grants that**
7 **Cottonwood has received, the dollar amount to be?**

8 A My recollection is they have been
9 relatively small dollar grants, a few thousand
10 dollars. There may have been one for \$10,000. But
11 as I mentioned earlier, the bulk of the
12 organization's revenue has come from attorney fees.

13 **Q Right. Look at Big Sky 252.**

14 **MR. MORRIS:** And, Breean, this is 18, file
15 number 18.

16 **BY MR. MORRIS:**

17 **Q Are you able to locate Big Sky 252 through**
18 **253?**

19 A Remarkably it's right in front of me,
20 right on top here.

21 **Q Perfect. Okay. Let's mark Big Sky 252**
22 **through 253 as Deposition 108.**

23 **Is this an email that you wrote from John**
24 **Meyer's Cottonwoodlaw.org email account?**

25 A No, I did not write this.

1 Q Okay. So you see the first line where it
2 says -- the first two lines it says, Hi Joel, Trevor
3 Lowell here. Do you see that?

4 A I do.

5 Q Okay. But you didn't write this email;
6 right?

7 A No.

8 Q Okay. Is this an email that Mr. Meyer was
9 ghost writing for you to send to Joel, a person
10 named Joel?

11 A Joel is a current Cottonwood board member.
12 We've been in discussions on and off ever since I
13 have been on the board about trying to formalize and
14 strengthen the board and engage them more in the
15 organization. John recently contacted me about that
16 effort. He has an intern working for him who has
17 some interest in helping out in that area. So he
18 had asked if we could sort of pick up that work
19 again. And I said that, you know, I had limited
20 capacity but I would be happy to talk about it and
21 talk through some ideas.

22 He suggested that we send Joel a letter to
23 try to prod him about engaging more with the
24 Cottonwood board. And I said, well, it would be
25 better if it came from me so why don't you draft

1 something and send it to me and I'll review it.

2 So that's what this email is here is a
3 draft of the communication that John has created and
4 sent to me.

5 Q Okay. And do you agree with John's
6 statement in this email that the Cottonwood
7 organization has always struggled on the financial
8 side of things?

9 A Yes.

10 Q And it's your understanding that
11 Cottonwood in August of 2020 didn't have enough
12 money to rent a place for its operations.

13 A Yes.

14 Q And that its bank account was actually
15 down to \$116.81.

16 A That's what's communicated here, yeah.
17 That's how I received that knowledge.

18 Q And that's -- okay. And that's your
19 understanding in August of 2020 the amount that was
20 in Cottonwood's bank account; correct?

21 A Yes, per this email communication.

22 Q Okay. You alluded earlier to the fact
23 that the majority of the money that comes into
24 Cottonwood for operational funds is received from
25 attorney fee awards and suits against the

1 **government; correct?**

2 A Yeah, attorney fee awards. Primarily, I
3 think most have been against the government, yeah.

4 Q And that's because Cottonwood typically,
5 like you mentioned earlier, sued environmental
6 causes, Forest Service, Fish and Wildlife Service,
7 Park Service or a state government entity of some
8 kind; correct?

9 A Yes.

10 Q All right. And in certain times in 2017
11 the attorney fee awards were outtaking donations by
12 such a degree that it was a threat to Cottonwood
13 status as a nonprofit public interest entity under
14 IRS regulations; right?

15 A Yeah, I remember that.

16 Q In fact, Cottonwood's accountant concluded
17 that Cottonwood had passed the public interest test.
18 Do you recall that?

19 A Yes.

20 Q And that was because Cottonwood was unable
21 to obtain any significant donations; right?

22 A I forget the exact -- it was a sort of
23 complicated tax classification where involves, you
24 know, how different types of revenue came into the
25 organization and also looking backwards at previous

1 years.

2 I don't remember exactly sort of how that
3 determination was made, but that concern was
4 flagged, I believe, by the accountant. It was
5 brought to the board's attention and then it was
6 resolved, but I couldn't tell you exactly how that
7 resolution came about or why, why that concern was
8 placated.

9 Q Can you find Big Sky 569 to 570 in front
10 of you?

11 A Yep.

12 Q Let's mark that as Deposition Exhibit 109,
13 please. And Deposition Exhibit 109 is a true and
14 correct copy of an email exchange between several
15 people including yourself and Mr. Meyer regarding
16 this public interest test issue that came up in
17 November of 2018; correct?

18 A Yes.

19 Q And one of the points that's being raised
20 by John Bonine, do you know Mr. Bonine?

21 A I do.

22 Q And he is concerned that Cottonwood has
23 not been carefully monitoring its donations versus
24 its attorney fee awards; right?

25 A Yeah, he's raised that question here.

1 **Q And that lack of monitoring has led to**
2 **this situation where Cottonwood's nonprofit status**
3 **was actually threatened under IRS guidelines;**
4 **correct?**

5 A Can you rephrase that?

6 **Q Right. Cottonwood's failure to sort of**
7 **monitor this issue and recognize the problem under**
8 **IRS guidelines is something that Mr. Bonine felt**
9 **should be carefully monitored; correct?**

10 A I think Mr. Bonine is raising a question
11 about whether or not there is adequate monitoring of
12 Cottonwood's donations and the details involved with
13 the public interest status by the IRS.

14 **Q Right. And did you agree with Mr. Bonine**
15 **that those issues were not being carefully monitored**
16 **to avoid this outcome?**

17 A My understanding was that, and my
18 recollection was that, no one on the board had much
19 knowledge about the IRS public interest test as it
20 pertains to nonprofits. So this was flagged and
21 then we reviewed what we needed to do to remedy the
22 situation.

23 Part of that conversation was these
24 concerns about monitoring this primarily to go
25 forward to make sure that now that we're aware what

1 the public interest test is we can do what we need
2 to do to continue to meet that.

3 Q Right. But as of November 2018, that
4 wasn't something that Cottonwood was keeping an eye
5 on; right?

6 A Yeah, that's accurate.

7 Q Do you know that Meyer's father has
8 donated sums of money to Cottonwood?

9 A I didn't know that specifically, no.

10 Q Okay. You have never been told by Mr.
11 Meyer or anybody else that Ronald Meyer or Ron Meyer
12 was making contributions and donations to
13 Cottonwood?

14 A No.

15 Q Okay. Do you know that Mr. Meyer was --
16 had donated money and was planning to donate money
17 to keep Cottonwood operational; right?

18 A Yes.

19 Q In fact, you had concerns with that
20 practice, did you not?

21 A Yes, I raised concerns about us not having
22 a conflict of interest policy in place as part of
23 our organizational bylaws. It seemed on my research
24 in looking at that that was pretty standard
25 especially if you are going to start transferring

1 funds from an organization's staff to its operating
2 budget.

3 **Q Right. And not just the staff, but the**
4 **director of the nonprofit, Mr. Meyer, was donating**
5 **funds as the director to Cottonwood; correct?**

6 A That was his intent, yeah. That was when
7 I brought up the conflict of interest issue I was,
8 prior to that, had recently been made aware by the
9 accountant that John had planned to donate this sum
10 of money.

11 So my concern was that we create a
12 conflict of interest policy that put that in place
13 before we pursued any donations from John in that
14 fashion.

15 **Q And he's not only the director, he was**
16 **also, like you said, a salaried employee of**
17 **Cottonwood; correct?**

18 A Yes.

19 **Q And that was the issue is to have the**
20 **director making a quote/unquote donation to a**
21 **nonprofit that he is also an employee of; right?**

22 A Correct.

23 **Q And you mentioned this I think earlier,**
24 **but Cottonwood was struggling financially to the**
25 **degree that it couldn't afford directors and**

1 **operators insurance, or D&O insurance; right?**

2 A Yes.

3 **Q Directors and officers. I'm sorry.**

4 A Yeah.

5 **Q Is that right?**

6 A Yes.

7 **Q That was something that you wanted**
8 **Cottonwood to use funds for; right?**

9 A I was on the board at CFAC at the time and
10 we had recently had a discussion about directors and
11 officers insurance. So it was something that I
12 became aware of and then reviewed Cottonwood's
13 policies and realized we didn't have it.

14 It's my understanding that it's pretty
15 standard policy for any nonprofit so it seemed like
16 something that the organization should pursue. And
17 we even solicited a few quotes, I believe, from some
18 insurance agents about what that would cost.

19 **Q But you didn't actually purchase that;**
20 **correct?**

21 A Correct. At the time there was not funds
22 enough to purchase a policy. The quote came back, I
23 think, much higher than we thought and there wasn't
24 the money in the operating budget to purchase it.

25 **Q Right. In addition to Cottonwood's**

1 **financial struggles, fair to say that Cottonwood has**
2 **also struggled to recruit and retain board members**
3 **and other members; correct?**

4 A I would agree with that statement as it
5 relates to recruitment. The board as it exists now
6 has been stable throughout my tenure. I think I'm
7 the most recent board member, so.

8 **Q Okay. What about Michael Willing?**

9 A Mike has been a board member who hasn't
10 really been that active. He has been one of the
11 ones that, you know, we have our twice yearly board
12 calls. I haven't -- I can't recall him actually
13 even participating in those, so I'm not sure if he's
14 officially stepped down or not.

15 **Q So he may be a board member in name, but**
16 **he doesn't participate in any of the biannual board**
17 **meetings; right?**

18 A Correct.

19 **Q Do you recall a time when Mr. Meyer**
20 **declared his board membership effectively over**
21 **because he was no longer responding or**
22 **participating?**

23 A It sounds, yeah, possible. I don't have -
24 - again, I don't remember specifically that
25 conversation, but...

1 **Q That's consistent with your recollection**
2 **of Mr. Willing's participation; right?**

3 A Yeah. Again, I don't know the status of
4 his participation as it exists right now. I recall
5 many conversations about board members that are
6 engaged at different levels. It's been an ongoing
7 discussion since I joined the board about trying to
8 get people to be more active and be more clear about
9 the expectations and make sure that they actually
10 participate and play the role that is expected of
11 them.

12 **Q Okay. And it's just been a constant**
13 **struggle to get that through an active participation**
14 **that it's required and expected; correct?**

15 A It's been a challenge, yes.

16 **Q And do you recall what happened with a**
17 **gentleman named Joshua Seckinger?**

18 A Josh was working for Cottonwood doing sort
19 of, I think, primarily marketing work and some
20 potential donor outreach. And then he was no longer
21 -- I think he and John parted ways and Josh stopped
22 working for the organization.

23 **Q Okay. And do you recall if he was fired**
24 **by Mr. Meyer?**

25 A I recall John having some issues with

1 Josh's output. And some concerns that he wasn't
2 doing what he said he was going to do and that it
3 wasn't worth the investment to keep him on.

4 **Q What about Keatan Williams? Do you recall**
5 **what happened with his relationship with Cottonwood?**

6 A Keatan was brought on as a staff attorney
7 to try to share some of the load. I don't know why
8 he left or if he was fired, why he was fired. I
9 don't know the details of that.

10 **Q Okay. Can you find in front of you Big**
11 **Sky 588?**

12 A Yes.

13 **Q Let's mark Big Sky 588 as Deposition**
14 **Exhibit 110, please. Deposition Exhibit 110 is an**
15 **email exchange authored by John Meyer to you and**
16 **other board members of Cottonwood; is that right?**

17 A Correct.

18 **Q And Mr. Meyer explained to you and the**
19 **other board members that Mr. Williams left because**
20 **John had made him uncomfortable by being outspoken**
21 **in his public criticism of numerous groups; right?**

22 A Correct.

23 **Q And he is also referring to some**
24 **inflammatory public remarks that Mr. Meyer made;**
25 **right?**

1 A John is referring -- he is offering
2 examples of some of the inflammatory remarks, if the
3 board would like to review that in the context of
4 why Keatan decided to leave.

5 **Q So Mr. Meyer's communications with others**
6 **was sort of causing a disruption in Cottonwood;**
7 **correct?**

8 A It appears that it caused this disruption,
9 yeah.

10 **Q Yeah. And that was fairly typical of Mr.**
11 **Meyer's behavior, wasn't it?**

12 A What, that he was outspoken?

13 **Q Correct.**

14 A Yes, as I stated before I think that he's
15 blunt, he's outspoken. Those are all accurate
16 statements.

17 **Q Okay. And that had a tendency to alienate**
18 **people like it did Mr. Williams; correct?**

19 A I would say certain people don't respond
20 positively to that. So, yes, there's a history.

21 **Q Outside of Mr. Meyer's work as the**
22 **director and attorney for Cottonwood Law, he's**
23 **consistently had other aspirations. Would you agree**
24 **with that?**

25 A Can you be more specific?

1 **Q** Sure. I mean, he left Cottonwood Law and
2 cut it down to -- started employment with WildEarth
3 Guardians; right?

4 A Yes.

5 **Q** And then he came back after that, after he
6 was fired from his job with WildEarth Guardians;
7 right?

8 A Yes.

9 **Q** And that would have been in the spring of
10 2016 when he started Cottonwood back up; correct?

11 A That sounds right, yes.

12 **Q** But by December of 2016 Mr. Meyer was
13 planning to run for congress; correct?

14 **MS. WALAS:** Objection; the Court's order
15 on this line of questioning is inadmissible.

16 Are you okay with continuing through this
17 whole thing?

18 **MR. MORRIS:** Sure.

19 A Yes, he ran for congress.

20 **Q** Right. But what I'm asking you is by
21 December of 2016 he had been thinking of leaving
22 Cottonwood and running and being a political figure;
23 correct?

24 A I can't confirm the chronology with that
25 level of specificity. I trust that that's accurate.

1 But, yeah, he had aspirations to run for congress.
2 He did run for congress and I think part of that
3 decision was depending on how it worked out was, you
4 know, putting Cottonwood -- either closing it or
5 putting it aside.

6 **Q Do you recall a text message that Mr.**
7 **Meyer sent you informing you in December of 2016**
8 **that he was going to reach out to the democratic**
9 **party and try to secure their endorsement for Mr.**
10 **Zinke?**

11 A I don't recall that specific text message.
12 I don't have any reason to believe it didn't happen,
13 but...

14 **Q Right. So was that consistent with your**
15 **sort of recollection and time line in December of**
16 **2016 Mr. Meyer was already starting to look**
17 **elsewhere besides Cottonwood for employment?**

18 A I don't know that I would characterize it
19 that way. I think he had aspirations to work in the
20 government to try to take his passion for the issues
21 that he cares about and try to find a new way to
22 affect change.

23 **Q And is it your understanding that Mr.**
24 **Meyer could be a congressman in the U.S. House of**
25 **Representatives and also sue on a regular basis the**

1 **Forest Service, the U.S. Fish and Wildlife Service**
2 **and other federal agencies?**

3 A I would assume that that's not kosher.

4 Q And then do you recall in August of 2017
5 Mr. Meyer communicating to you that he wanted to
6 apply to be a law professor at the University of
7 Montana?

8 A Yes.

9 Q Will you take a look at Big Sky 903,
10 please? Let's mark that as Deposition Exhibit 111.

11 Deposition Exhibit 111 is a true and
12 correct copy of an email exchange that you had with
13 Mr. Meyer in August of 2017; correct?

14 A Correct.

15 Q And Mr. Meyer in the middle on August 25th
16 is informing you he wants to apply for a law
17 professor job at UM; right?

18 A Yes.

19 Q And do you know if he -- if Mr. Meyer made
20 that application?

21 A I remember him moving forward with the
22 process. I don't know if the application was
23 submitted or where it ended. But it was a serious
24 interest of his and he pursued it.

25 Q Okay. And was it your understanding that

1 he wanted to take this job with the University of
2 Montana and shut down Cottonwood as a result?

3 A I don't know that we ever covered that in
4 our discussions about it.

5 Q Okay. Do you recall that in March of 2018
6 Mr. Meyer announced to you and other members of the
7 board of Cottonwood that he was going to run for
8 congress?

9 A Yes.

10 Q Can you pull up Big Sky 858 to 869?

11 A Okay.

12 Q And do you recall Mr. Meyer requesting
13 that his salary at Cottonwood be set at \$75,000 a
14 year plus benefits?

15 A Yeah, he is requesting that in this email.

16 Q Right. And do you have a recollection of
17 him doing that?

18 A Yes.

19 Q And do you know whether or not the board
20 approved of that request?

21 A I don't -- I don't remember. I don't
22 remember that level of detail. I think we had
23 approved the budget for that year, so I would assume
24 that if we approved the budget we would have
25 approved that request. I don't remember anybody

1 arguing against the salary request.

2 **Q Okay. And how would that salary request**
3 **be paid for?**

4 A It would be paid for out of the
5 organization's budget.

6 **Q Okay. Do you believe that Mr. Meyer's**
7 **aspiration and interest in these other positions was**
8 **driven by Cottonwood's challenges, financial and**
9 **otherwise?**

10 A I would agree that that was a factor in
11 his interest in these other positions. I think
12 primarily John has always been focused on having the
13 largest impact about the issues he is passionate
14 about. I think that's the primary driving factor.
15 I would certainly agree that part of that decision
16 was the issues that Cottonwood has.

17 **Q Mr. Meyer has communicated with you**
18 **consistently about his financial struggle with**
19 **Cottonwood; correct?**

20 A Yes.

21 **Q And he has told you that at times he needs**
22 **to settle cases with the government so that he can**
23 **pay his bills; right?**

24 A Yes, he's expressed to me -- I mean,
25 knowing that that's how most of the funding, the

1 revenue for the organization works, he has expressed
2 to me at certain times that he's anxious about
3 settling cases because he knows that's when there'll
4 be some more revenue.

5 **Q Right. Because the donation in getting --**
6 **obtaining donations was never something that**
7 **Cottonwood was consistently able to do; right?**

8 A Not to the amount needed to fund the
9 organization. I mean, I think donations
10 consistently come in, it's just not substantial
11 enough to keep Cottonwood operating without the
12 other forms of revenue.

13 **Q Are you familiar with the Complaint that**
14 **Mr. Meyer filed in this lawsuit?**

15 A I mean, I'm familiar that there is a
16 lawsuit. I'm familiar that the issue here is that he
17 was injured while skiing at Big Sky Resort. And
18 that my understanding is that he feels like the area
19 wasn't marked correctly and that contributed to the
20 accident.

21 **Q Right. Let me just clarify my question a**
22 **little bit.**

23 **Do you know what a Complaint is as that**
24 **term is used in the law?**

25 A I couldn't define it, no.

1 **Q Okay. But do you have a general sense of**
2 **what a Complaint is?**

3 A I mean, generally, yeah. As far as the
4 exact legal term and how that fits in the legal
5 process, no.

6 **Q Sure. But generally speaking do you**
7 **understand that a Complaint is a document that is**
8 **filed with a court that initiates a legal action.**
9 **Do you understand that?**

10 A Yeah.

11 **Q Okay. And Mr. Meyer spoke to you about**
12 **his plan to sue Big Sky as early as July of 2017,**
13 **did he not?**

14 A That sounds right, yeah.

15 **Q Yeah. And that was when he was living**
16 **outside of Big Sky with Amanda Eggert; correct?**

17 A Yes.

18 **Q And fair to say that Mr. Meyer resented**
19 **the direction that the town of Big Sky was headed in**
20 **before filing his lawsuit?**

21 A I would say John had some issues with what
22 aspects of Big Sky and Big Sky community
23 represented, specifically as it relates to
24 significant amounts of wealth and power structures
25 that are involved with, you know, powerful wealthy

1 people and powerful wealthy organizations, exerting
2 influence over certain things and primarily
3 environmental policy.

4 **Q Can you look at Big Sky 909, please?**

5 **A Okay.**

6 **Q Let's mark that Deposition Exhibit 112.**

7 **MS. WALAS:** What share file is that?

8 **MR. MORRIS:** It's 25.

9 **MS. WALAS:** I'm sorry, I also missed the
10 deposition exhibit number.

11 **MR. MORRIS:** 112.

12 **MS. WALAS:** Thanks.

13 **BY MR. MORRIS:**

14 **Q Is Deposition Exhibit 112 a true and**
15 **correct copy of some text message exchange between**
16 **you and Mr. Meyer in July of 2017; correct?**

17 **A Correct.**

18 **Q And this is around the time that you had**
19 **just signed a declaration that would assist to be a**
20 **plaintiff in a lawsuit concerning net metering;**
21 **correct?**

22 **A That sounds accurate, yeah.**

23 **Q And Mr. Meyer's telling you, he says in**
24 **this text message exchange, next up: Big Styce;**
25 **correct?**

1 A Correct.

2 Q And he's referring to Big Sky Resort in
3 this text message; correct?

4 A Yes, I assume so.

5 MS. WALAS: Mac, let me go ahead and
6 interrupt and object to this line of questioning on
7 the grounds that the Court has dismissed the abuse
8 of process claim and you can go ahead and continue.

9 MR. MORRIS: Okay.

10 BY MR. MORRIS:

11 Q And he is also referring to Big Sky as Pig
12 Stye; correct?

13 A He refers to it at Big Stye, Pig Sky, Pig
14 Stye and then Big Sky.

15 Q And you knew what he was referring to when
16 he told you, next up, Big Stye; right?

17 A As far as him referring to the resort?

18 Q As far as him referring to suing Big Sky
19 Ski Resort for injuries he claimed were the result
20 of Big Sky's negligence.

21 A I don't know at this time if I was aware
22 of his plans to sue.

23 Q Okay. And you didn't respond in this text
24 exchange what are you talking about; right?

25 A No, I didn't respond to -- I responded --

1 well, I didn't respond. He brought up a totally
2 different subject after that and I responded to
3 that.

4 **Q So is it fair to say that you and John had**
5 **discussed his interest in suing Big Sky over a ski**
6 **wreck at this time?**

7 A I can't say that we had, no.

8 **Q Okay. Did you know at this time that Mr.**
9 **Meyer was blaming Big Sky for his ski wreck?**

10 A Yes, I think he -- I mean, we had talked
11 about what had happened and he had discussed, you
12 know, some of his frustrations. So I think it was
13 clear to me that he had that sentiment, yeah.

14 **Q Okay. Do you know that before Mr. Meyer**
15 **filed the lawsuit against Big Sky, that he had**
16 **blamed Dynafit bindings for his ski wreck at Big**
17 **Sky?**

18 **MS. WALAS:** Objection; based on the
19 Court's order this line of questioning is not going
20 to be admissible at trial.

21 **Q You can go ahead and answer.**

22 A Repeat the question, please.

23 **Q Do you know that before Mr. Meyer filed**
24 **his lawsuit against Big Sky blaming Big Sky for his**
25 **wreck, that he had blamed Dynafit, his Dynafit**

1 **bindings for his ski wreck?**

2 A I had conversations with John at some
3 point about his Dynafit binding being -- having
4 malfunctioned. I remember conversations because he
5 was talking about purchasing new skis and new gear.
6 And he felt like his -- the binding that he had used
7 that day, there was a lot of play in the boot. So I
8 don't know exactly when it came up, but I knew that
9 that was something that he talked about as being an
10 issue and being a factor in the accident.

11 **Q And did he tell you that he believed the**
12 **Dynafit binder had prereleased and caused his**
13 **accident?**

14 A I don't know that we got into that level
15 of detail. I just knew he had issues with the
16 binding and thought that was a potential factor.

17 **Q Okay. Did he tell you that he believed**
18 **the binding was defective?**

19 A Yes.

20 **Q And that those defects were the reason why**
21 **he fell at Big Sky?**

22 A He discussed the binding being defective
23 and that being a factor in his accident.

24 **Q Right. Take a look at Big Sky 916,**
25 **please. Actually it's 915 through 916.**

1 A Okay.

2 Q Unfortunately, I think there's two copies
3 of 916. If we can mark Big Sky 915 through 916
4 Deposition Exhibit Number 113. We only need one
5 copy of 916.

6 Okay. So Deposition Exhibit 113 is a true
7 and correct copy of a text exchange that you had
8 with Mr. Meyer that -- around December 30th of --
9 I'm sorry, December 7th through December 30th of
10 2016; correct?

11 A Yes.

12 Q And Big Sky 916, do you see the text
13 message at the bottom of that page that is cut off?

14 A Yep.

15 Q Okay. And then if you run on to 915,
16 that's the continuation of that text message;
17 correct?

18 A Correct.

19 Q And on Big Sky 916 at the bottom Mr.
20 Meyer's telling you he is scared of riding the skis
21 he crashed on; correct?

22 A Correct.

23 Q And you responded that that was a
24 reasonable fear and asked whether both the DPS skis
25 that he owns and his other skis were mounted with

1 Dynafit bindings; correct?

2 A Correct.

3 Q Mr. Meyer had told you at this time that
4 he believed that the Dynafit bindings had
5 malfunctioned and caused his wreck; correct?

6 A Because he had concerns that they were a
7 factor in his accident.

8 Q Right. And we talked earlier that your
9 pre November 2016 text messages with Mr. Meyer are
10 no longer -- you're no longer able to access those;
11 correct?

12 A Correct.

13 Q And do you recall whether or not you and
14 Mr. Meyer discussed his belief that the Dynafit
15 bindings were to blame for his ski accident in
16 November -- pre November 2016 --

17 A I don't recall.

18 Q Did Mr. Meyer tell you that he had sent
19 Dynafit a multimillion dollar demand because he was
20 blaming Dynafit for his ski accident?

21 A No.

22 Q Did he tell you that he has demanded that
23 Dynafit issue a nationwide recall of those bindings?

24 A We did discuss that, yeah.

25 Q Okay. And he actually made a demand on

1 Dynafit in May of 2016 for that recall. Do you
2 remember that?

3 A Not with that level of specificity. I
4 remember talking to him about his desire to have
5 that binding recalled, yes.

6 Q That was because he believed that those
7 bindings were defective; right?

8 A Yes.

9 Q Had caused his accident.

10 A And were a factor in his accident.

11 Q He didn't want anybody else to suffer a
12 fall like he did as a result of the Dynafit bindings
13 prerelease; right?

14 A I assume that was part of his motivation,
15 yes.

16 Q Okay. We have previously marked an
17 exhibit in this case. It's Exhibit 28. If you can
18 bring that up on the share file, Trevor. It's tab
19 27.

20 A Okay.

21 Q Have you ever seen this email that Mr.
22 Meyer sent to Scott Knight at Salewa USA which is a
23 company owns Dynafit binding?

24 A No.

25 Q You weren't aware that Mr. Meyer was

1 asking Dynafit to make a donation to Cottonwood

2 Environmental lawsuit in the amount of -- Law Center

3 in the amount of \$500,000?

4 A No.

5 Q Okay. He never told you anything about
6 this demand?

7 A No.

8 Q Other than -- other than the issue about
9 the recall?

10 A That's what we discussed regarding the
11 binding.

12 Q Can you bring up Big Sky 888 through 889?

13 MS. WALAS: What share file is that one?

14 MR. MORRIS: It's 32.

15 MS. WALAS: Thank you.

16 A 888 through what?

17 Q 889.

18 A I have 888.

19 Q Okay. Let's mark Big Sky 888 through 889
20 as Deposition Exhibit 114.

21 MS. WALAS: Mac, I'm struggling to find
22 that one in what you sent me. I'm only showing a
23 single 888.

24 MR. MORRIS: Okay.

25 THE WITNESS: I had to go to the full text

1 message file to find 889.

2 **MS. WALAS:** Oh, here it is. It is in 32.

3 It just kind of opened when I opened my --

4 **MR. MORRIS:** Okay.

5 **MS. WALAS:** There is a single 888 though
6 as well.

7 **MR. MORRIS:** Yep.

8 **BY MR. MORRIS:**

9 **Q** Okay. So Deposition Exhibit 114, do we
10 have it marked?

11 **A** Yes.

12 **Q** And that's a true and correct copy of a
13 text exchange that you had with Meyer -- Mr. Meyer
14 in -- ranging from November 20th, 2017, to December
15 18, 2017; correct?

16 **A** Correct.

17 **Q** I want to direct your attention to the
18 text exchange on Big Sky 889 that was sent by Mr.
19 Meyer on December 12, 2017. Do you see that?

20 **A** Yes.

21 **Q** Mr. Meyer is asking you to help him
22 characterize his skiing ability at the time of his
23 ski wreck at Big Sky; correct?

24 **A** Correct.

25 **Q** And you responded on that same day that he

1 was an immediate skier; correct?

2 A Yes.

3 Q And that was -- okay. So you knew that he
4 was going to file this lawsuit at that time;
5 correct?

6 A Yes.

7 Q Right. Okay. Can you bring up Big Sky
8 580, please? It's actually Big Sky 580 through 587.

9 MS. WALAS: What share file is it?

10 MR. MORRIS: It's 29.

11 BY MR. MORRIS:

12 Q Let's mark Big Sky 580 through 587 as
13 Deposition Exhibit 115.

14 Deposition Exhibit 115 is a true and
15 correct copy of an email between Mr. Meyer and
16 Taylor Middleton on December 15, 2017; correct?

17 A Yes.

18 Q It also contains an attachment which is
19 the Complaint Mr. Meyer filed to initiate this
20 action; right?

21 A That's the other document, yeah.

22 Q So you produced this document to us in
23 response to the subpoena; correct?

24 A Yeah, I believe so.

25 Q Right. And so were you blind copied on

1 **Mr. Meyer's email to Mr. Middleton?**

2 A I would assume so. I mean, again, I
3 exported all those emails in one big batch, so I
4 didn't look through these. So if the filter pulled
5 this out my guess is that I was somewhere on the
6 communication.

7 **Q Okay. Do you recall this email being sent**
8 **by Mr. Meyer to Mr. Middleton?**

9 A I don't have a specific recollection of
10 it. I don't argue that it was sent or that I was
11 copied on it.

12 **Q Okay. Do you know who Taylor Middleton**
13 **is?**

14 A I don't.

15 **Q Okay. Did you know who Taylor Middleton**
16 **was when this email was sent?**

17 A I don't know who he is now and I didn't
18 know who he was then.

19 **Q Did Mr. Meyer ever talk to you at all**
20 **about his conversations with Taylor Middleton?**

21 A No.

22 **Q Okay. So were you surprised when you**
23 **received this email? I mean, did you know -- let me**
24 **ask that. Were you surprised when you received this**
25 **email?**

1 A It's difficult for me to recall my
2 reaction. I think that prior to this email I knew
3 that John was interested in some sort of legal
4 action relating to his accident and the resort. And
5 so I didn't have a large level of detail about what
6 his hope was, but I would say it probably didn't
7 come out of left field for me, but lots of things
8 that John does sometimes is out of the normal
9 operations of day to day life, so...

10 **Q What do you mean by that?**

11 A I mean that he's, you know, he does bold
12 and outspoken things. And so I've known John for a
13 long time. I think that his personality surprises a
14 lot of people. I've gotten a little more used to
15 it, I guess.

16 **Q Okay. And did you think that his filing**
17 **of this lawsuit was sort of consistent with Mr.**
18 **Meyer's unconventional approach?**

19 A I don't know. I think that it made sense
20 to me given the conversations that we had been
21 having about his accident and what he planned to do.
22 So I think it's not unconventional to sue a ski
23 area. So, yeah.

24 **Q Okay. And do you see on the first page of**
25 **Deposition Exhibit 115, the reference at the bottom**

1 **it says, there's also talk of a healthcare rally**
2 **tomorrow? Do you see that?**

3 A Yeah.

4 **Q And do you know what Mr. Meyer was**
5 **referring to?**

6 A I don't know what he was referring to. He
7 had talked with me about his interest in retaining
8 or getting health insurance for Big Sky's ski patrol
9 and that being related to this effort.

10 **Q Okay. And did you attend a healthcare**
11 **rally with Mr. Meyer --**

12 A No.

13 **Q -- at Big Sky?**

14 **Will you turn on the Complaint to**
15 **paragraph 37?**

16 A Okay.

17 **Q Did you read this Complaint when you**
18 **received this email back in 2017?**

19 A I honestly couldn't say. It's likely I
20 did, but I don't know.

21 **Q Mr. Meyer is alleging that he continues to**
22 **experience substantial psychological pain and**
23 **suffering in his Complaint. Do you see that?**

24 A I do.

25 **Q And is that consistent with your**

1 **experience and interactions with Mr. Meyer around**
2 **this time?**

3 A My experience with John and his, you know,
4 issues resulting from the traumatic brain injury is
5 that he had a number of physical and cognitive
6 things that continued to affect him.

7 He, you know, I think that was very clear
8 to me, it was very clear from visiting him in the
9 hospital and continues to be clear today that that
10 accident and the TBI he suffered as a result has had
11 serious impacts on his cognitive abilities and I
12 think that's, you know, the primary issue.

13 Q Sure. I'm not asking about psychological
14 pain and suffering. I'm asking, was it your
15 impression Mr. Meyer in December of 2017, that he
16 was under substantial psychological pain and
17 suffering?

18 A Sure. I mean, I'm not a mental health
19 professional, but, yeah, John, was very distraught
20 at times. He was, you know, making public posts on
21 the internet and breaking down and crying on
22 Facebook live feeds. He was emotionally just really
23 raw and sensitive in a way that I had not known him
24 to be.

25 So I don't know that I was -- I wasn't

1 seeing John consistently, but to the extent that I
2 was in touch with him and spending time with him, he
3 seemed to be, you know, struggling mentally with a
4 lot of things related to the accident.

5 **Q So take a look at Big Sky 888 again. I**
6 **think we've already marked that as Deposition**
7 **Exhibit 114.**

8 A Yep.

9 **Q So this text exchange on Big Sky 888 is**
10 **two days after Mr. Meyer sent this email to Mr.**
11 **Middleton and referred to a Complaint in this case;**
12 **correct?**

13 A Yes.

14 **Q On December 17, 2017, Mr. Meyer's telling**
15 **you that he just had an awesome day of skiing in**
16 **Hyalite that day; correct?**

17 A Correct.

18 **Q So you said earlier that for a period of**
19 **time Mr. Meyer didn't remember his wreck or didn't**
20 **communicate thinking about remembering his ski**
21 **wreck; correct?**

22 A I think what I said was that John had
23 discussed with me that memory recall was, and his
24 ability to sort of place events chronologically, was
25 one of the symptoms he was suffering after the

1 accident.

2 **Q Sure. So he couldn't remember the ski**
3 **wreck in any detail for a while; correct?**

4 A I feel like I answered that before. What
5 I remember is him struggling with memory recall and
6 placing things chronologically.

7 **Q Uh-huh. And then you said later you had**
8 **discussions with him and then you understood why he**
9 **wanted to sue Big Sky; right?**

10 A He, yeah, we had discussions about his
11 desire to sue, his desire to get health insurance
12 for the ski patrol, his frustration that the resort
13 could afford to install expensive capital
14 investments, but couldn't pay for health insurance
15 for their staff.

16 And so my understanding was that he was
17 interested in pursuing a lawsuit against Big Sky and
18 that was one of his goals.

19 **Q Right. And so his goal was really to get**
20 **healthcare for Big Sky ski patrollers; right?**

21 A I think that was one of his desired
22 outcomes, yeah. I think he also wanted -- he had
23 talked about there not being enough safety
24 equipment. So the ability to -- he had told me he
25 had conversations with patrollers that there wasn't

1 enough safety equipment to properly mark hazards on
2 the hill. And that they had known that the area
3 where he was injured was an actual, you know,
4 someplace where others had been injured.

5 And so I think another goal for him was to
6 make sure they had the equipment necessary to do
7 their job and that they were marking hazards as they
8 needed to.

9 **Q So he wanted to get equipment for Big Sky**
10 **ski patrol and he wanted to get health insurance for**
11 **Big Sky ski patrol; is that right?**

12 A Yeah, I would say both of those were
13 interest of his, yeah.

14 **Q Right. When did he tell you that other**
15 **people had wrecked in the same location that he had?**

16 A I don't know. It's very difficult for me
17 to sort of -- we've had lots of conversations about
18 this over the span of three years, so I couldn't
19 tell you exactly.

20 **Q Sure. And you believe that that was after**
21 **he filed this lawsuit, don't you?**

22 A I believe that his -- will you rephrase
23 that?

24 **Q Sure. You believe that his assertion that**
25 **other people had wrecked in the same location is**

1 something that he communicated to you after he filed
2 this lawsuit; right?

3 A I think that's right, yeah.

4 Q Right. And so when he filed this lawsuit
5 his goal was to get healthcare for the Big Sky ski
6 patrol and to get equipment for Big Sky ski patrol;
7 right?

8 A I think that was -- whether that was the
9 impetus for filing the lawsuit or not, I think that
10 that was what he interested in doing with the
11 settlement funds. And he thought --

12 Q Sure.

13 A -- that instead of suing the resort and
14 taking a large personal cut then going away and
15 being happy with that, that he could sort of use
16 this opportunity to right this wrong. He thought it
17 was egregious that the ski patrol didn't have health
18 insurance.

19 Q Okay. And that was the wrong that he was
20 interested in righting; is that correct?

21 A I think that was one of the desired
22 outcomes --

23 Q Right.

24 A -- that he was interested in.

25 Q Yep. And he never communicated to you

1 **that he thought it was wrong that this cat track**
2 **where he alleged he wrecked wasn't marked; is that**
3 **right?**

4 A No, he did. I think he was -- that was a
5 relevant factor as well. Like he felt like it
6 should have been marked and --

7 **Q Okay.**

8 A -- that was one of the issues that he was
9 interested in.

10 **Q When did he tell you that he felt like the**
11 **cat track should have been marked?**

12 A Again, we had several conversations where
13 a lot of information came up. He shared emails from
14 ski patrollers that he had talking about not having
15 enough materials, so I couldn't place it distinctly
16 in a time line, but I know --

17 **Q Sure.**

18 A -- that that was part of the -- the
19 narrative was that the area wasn't marked and he
20 felt it should be. It seemed that the other
21 patrollers on staff who also felt that it should
22 have been marked.

23 **Q What did he tell you about why he thought**
24 **this cat track should have been marked?**

25 A I don't know that we got into that level

1 of detail. I mean, I think he just felt like it was
2 a significant terrain variation in a place that may
3 not be obvious or clearly had a history of causing
4 other issues and accidents, so...

5 **Q Yeah, but you just told me that this**
6 **history of, this assertion that it had a history of**
7 **causing other accidents is something that he**
8 **communicated to you after he filed the lawsuit. I**
9 **want to go to the time before he filed the lawsuit.**

10 **Okay?**

11 A Sure.

12 **Q Right. And before he filed the lawsuit,**
13 **what did he communicate to you about why he thought**
14 **this cat track should be marked?**

15 A Again, I don't know that I have that clear
16 of a time line where I could say these are what we
17 talked about prior to lawsuit and this is --

18 **Q No, no, no. I'm asking you what he told**
19 **you about why he thought the cat track should be**
20 **marked.**

21 A Before he filed the lawsuit.

22 **Q Correct.**

23 A Right. And what I'm saying is that I
24 don't have that distinct memory of chronology of
25 events. And so for me to comment on this I'm

1 commenting more generally on multiple communications
2 we've had over multiple years about this accident,
3 about the lawsuit. Very difficult for me to say
4 these are what we talked about prior to him filing
5 the lawsuit and this is what we talked about after.

6 **Q Okay. But you do know that he told you**
7 **after he filed the lawsuit only that he believed**
8 **other people had wrecked in this location. You know**
9 **that much; right?**

10 **A I think so, yeah. I mean, again, this is**
11 **all part of the --**

12 **Q Right. Did he ever tell you that he**
13 **couldn't see the cat track that he wrecked on, he**
14 **allegedly wrecked on?**

15 **A I don't recall that.**

16 **Q Okay. So did he ever draw a connection**
17 **between his own wreck and the lack of marking of the**
18 **cat track, or was he just speaking -- do you**
19 **understand my question? Did he ever communicate to**
20 **you and draw a connection between his own wreck and**
21 **the lack of marking of the cat track?**

22 **A Yes.**

23 **Q Okay. He did communicate that to you.**

24 **A Yes, I remember that part of our multiple**
25 **conversations about this.**

1 **Q Right. And that's opposed to him just**
2 **sort of generally wanting ski patrol to have more**
3 **equipment so that they could mark places like this**
4 **for other people. Do you see the distinction I'm**
5 **drawing?**

6 A Not really. I mean, I think that he -- I
7 mean, you're talking about a couple of different
8 things. So his desire to get health insurance for
9 ski patrol is related to this. His desire to get
10 the mountain properly marked and be safe for others
11 relate to this. I think he also had a desire to
12 prove wrongdoing and so, you know, that's a factor
13 here too.

14 So he had -- he felt, my understanding, he
15 felt that that area wasn't properly marked and that
16 the patrol was aware of that and that it had caused
17 issues and potentially then a factor in other
18 accidents on the mountain. And he felt that that
19 was sort of foundational to his accident.

20 **Q Right. And what I'm getting at is he**
21 **never communicated to you that he wrecked because**
22 **the cat track was not marked; right?**

23 A No, I wouldn't say that's -- I think that
24 was part of his issue, part of what he was claiming
25 was that.

1 **Q Okay. Did he tell you about that?**

2 A He told me that the terrain, that Big Sky
3 ski patrol didn't have enough materials to mark
4 certain places --

5 **Q Okay.**

6 A -- and that --

7 **Q Let me just make sure you understand my**
8 **question.**

9 What did he tell you about his wreck in
10 connection with the markings? I don't want to hear
11 about, you know, somebody else and needing to mark
12 generally. I want to focus specifically on what he
13 told you about his wreck in connection with the
14 markings.

15 Do you understand that?

16 A Yeah.

17 **Q Okay. So can you speak to that? What did**
18 **he tell you about why he wrecked?**

19 A He told me that the area wasn't properly
20 marked.

21 **Q Okay. So he told you that. He said, I**
22 **wrecked because the area wasn't properly marked.**
23 **That's what he told you, that's your testimony?**

24 A Yes. In multiple conversations over many
25 years, part of those conversations, part of this

1 narrative, was that the hill wasn't properly marked
2 and that played a role in his ski accident.

3 Q Okay. And also Dynafit bindings played a
4 role in his accident; correct? He told you that as
5 well.

6 A Yeah.

7 Q Okay. Did you ever break that down for
8 him and say, John, was it the marking or was it the
9 Dynafit? I mean, did you ever press him on that
10 issue?

11 A No.

12 Q Why not?

13 A I don't know.

14 Q You just simply support his goal of
15 getting healthcare for the ski patrol and didn't
16 question whether or not, in fact, his wreck was due
17 to the lack of markings?

18 A I don't think that I have been involved at
19 the level that you may think I have been.

20 Q Okay.

21 A Like John --

22 Q And you are telling me that he told you
23 that this -- the fact that it occurred because of
24 the lack of marking; right?

25 A That was part of the narrative, yes.

1 **Q Okay. Just part of the narrative. Not**
2 **necessarily the cause of his accident; right?**

3 A As you mention, the Dynafit issue was
4 another part of the narrative.

5 **Q Okay. The other part was that he simply**
6 **wanted to achieve something to pay back what he**
7 **viewed as debt that he owed to ski patrol for saving**
8 **his life; right?**

9 A Right. I wouldn't say that had anything
10 to do with his accident. I would say that had
11 something to do with his motivation.

12 **Q Right. Okay. Have you told me everything**
13 **you know about this narrative that you understand**
14 **with respect to the cause of John Meyer's accident**
15 **at Big Sky?**

16 A Yes.

17 **Q Okay. And did Mr. Meyer ever tell you**
18 **about the testimony of the eyewitness to the ski**
19 **accident?**

20 A No.

21 **Q Okay. Did he ever communicate to you that**
22 **he was skiing very fast down the ski run at Big Sky**
23 **before his accident?**

24 A No.

25 **Q Okay. He never told you that.**

1 A No.

2 Q Did Amanda Eggert ever tell you that she
3 believed he lost control uphill of the cat track
4 where Mr. Meyer blames for his accident?

5 A Not that I recall.

6 Q Okay. But you are unaware as you sit here
7 today that the only eyewitness to Mr. Meyer's ski
8 wreck has testified Mr. Meyer saw the cat track;
9 right?

10 A I was -- I am unaware or was unaware that
11 there was an eyewitness at all.

12 Q Okay. So you didn't even know there was
13 an eyewitness.

14 A No.

15 Q Mr. Meyer never told you that the
16 eyewitness testified that Mr. Meyer was trying to
17 jump off the downhill lift of the cat track; is that
18 right?

19 A That's correct.

20 Q Okay. And so everything that you know
21 about this wreck is based on things that Mr. Meyer
22 has selectively chosen to tell you about his ski
23 wreck; right?

24 A I would add conversations with Amanda and
25 his father as well.

1 **Q Okay. And they didn't see the ski wreck;**
2 **right?**

3 A Not to my knowledge, no.

4 **Q Right. Mr. Meyer liked to ski fast in**
5 **your experience?**

6 A No, as I stated, he is an immediate skier.
7 He switched from splitboarding to skiing when I knew
8 him. And he was competent, you know, able to move
9 through a lot of terrain but was pretty cautious.

10 **Q Have you ever skied at Big Sky Resort?**

11 A I have, yeah.

12 **Q Okay. Have you ever skied the Highway**
13 **Road?**

14 A I've only skied a handful of times. I
15 wouldn't be able to say if I've skied a certain
16 trail.

17 **Q Okay. Do you recall the cat track or road**
18 **at the base of the Highway Run that takes you back**
19 **to the Challenger lift?**

20 A No.

21 **Q So nothing -- when was the last time you**
22 **skied at Big Sky Resort?**

23 A Probably 2010, maybe.

24 **Q Okay. And you skied the Highway Run in**
25 **2010.**

1 A I don't know. I don't know the mountain
2 well enough to --

3 Q Okay. Let me ask you this.

4 Is it your understanding that Mr. Meyer
5 had sort of an epiphany about the details of how his
6 wreck occurred sometime after he got out of the
7 hospital?

8 A I've never discussed with him an epiphany,
9 no.

10 Q What's your understanding of how the
11 details of the ski wreck, if they did, come back to
12 him? How did they come back to him, slowly, over
13 time or how?

14 A I assumed it was sort of over time.

15 Q Okay.

16 A You know, talking to Amanda and talking to
17 other people, I think he was in -- potentially in
18 contact with some of the patrollers that were on the
19 scene, but my assumption was that it was over time.

20 Q Right. That's an assumption, right, that
21 you are sort of guessing; correct?

22 A Correct.

23 Q And what you are telling me is that you
24 believe that he pieced it together based on things
25 he learned from other people; is that right?

1 A I am telling you that I am making an
2 assumption that I think he came to understand what
3 happened to him over time and that understanding was
4 likely influenced by other people that had knowledge
5 of the accident.

6 **Q Right. So his -- his version of events is**
7 **influenced by what other people have told him;**
8 **correct?**

9 A That's my assumption.

10 **Q Right. Have you ever fallen at a ski**
11 **resort?**

12 A Yes.

13 **Q Have you ever sued a ski resort in**
14 **connection with any fall you have taken at a ski**
15 **resort?**

16 A No.

17 **Q And you accepted personal responsibility**
18 **for any falls you have ever taken at a ski resort;**
19 **right?**

20 A Yes.

21 **Q Just like you do in the backcountry;**
22 **correct?**

23 A Yes.

24 **Q And you agree with me whether you are in**
25 **the backcountry or you are at a ski resort, you need**

1 to control your speed.

2 A Yes.

3 Q And you need to control your course;
4 correct?

5 A Yes.

6 Q And be aware of the terrain that's in
7 front of you; correct?

8 A Yes.

9 Q And ski with a level of caution that's
10 appropriate under the conditions; correct?

11 A Correct.

12 Q Have you ever seen photographs of the area
13 where Mr. Meyer wrecked?

14 A No.

15 Q Okay. Mr. Myers never showed you any
16 photograph of the Highway Run; correct?

17 A Correct.

18 Q And you don't know whether or not the cat
19 track that Mr. Meyer's blamed for his wreck is
20 visible, or obscured or otherwise; right?

21 A I have none of that knowledge.

22 Q Okay. Mr. Meyer liked to do jumps in your
23 experience?

24 A No, again, he was pretty cautious.

25 Q Okay. Never seen him jump on the skis; is

1 **that right?**

2 A I don't think I said that. You asked if
3 he liked to do jumps.

4 **Q Jump --**

5 A It's very likely I've seen him jump on his
6 skis, yes.

7 **Q Okay. Where have you seen him jump?**

8 A I could not provide a specific example.
9 I've spent many, many hours skiing with John and,
10 yeah.

11 **Q More than one occasion?**

12 A Has he jumped on more than one occasion?

13 **Q With you, yeah.**

14 A I do not have a strong memory of him. I'm
15 more so saying that it's within the realm of
16 possibilities that he has jumped while I've been
17 skiing with him, but I do not have a specific memory
18 of anytime when he has jumped.

19 **Q Okay. Do you know any Big Sky Resort**
20 **employees?**

21 A No.

22 **Q Okay. Do you know E.B. Dixon?**

23 A No.

24 **Q Are you aware of Mr. Meyer's relationship**
25 **with E.B. Dixon?**

1 A No.

2 Q Okay. Can you look at Big Sky 925,
3 please?

4 MS. WALAS: Mac, can we take a break right
5 now? My battery is about to die.

6 MR. MORRIS: Ten minutes. Let's take ten
7 minutes.

8 MS. WALAS: Sounds good.

9 (Recess taken)

10 MR. MORRIS: Back on the record.

11 BY MR. MORRIS:

12 Q Mr. Lowell, you understand that you are
13 still under oath; correct?

14 A Correct.

15 Q Okay. So before we took that break I
16 think you had told me that you were not especially
17 involved with this case; is that right?

18 A Correct.

19 Q Okay. And you did email with Mr. Meyer
20 pretty frequently and ask him how things were going
21 with the Big Sky case; correct?

22 A Yes.

23 Q Okay. Why were you repeatedly asking Mr.
24 Meyer about this case?

25 A It was a prominent event in his life and

1 he is a close friend of mine and so I knew that it
2 was something that was occupying a lot of his
3 attention and time. And as a friend it seemed a
4 relevant thing to be interested in.

5 **Q Okay. Any other reason?**

6 A No.

7 **Q I think recently you asked him where**
8 **things are at with your political aspirations and**
9 **the Big Sky case. Why did you ask him about those**
10 **two things?**

11 A I think the same reason. I mean, they're
12 both big prominent aspects of his life, events,
13 things that he's thinking about and dealing with.
14 And so when we check in we tend to start with the
15 bigger issues and just see how things are going.

16 **Q Sure. And has Mr. Meyer ever communicated**
17 **to you that Big Sky filed a counterclaim against**
18 **him?**

19 A He did mention that, yes.

20 **Q Right. And what did he tell you about**
21 **that?**

22 A Essentially that. That they were suing
23 him. I think, if I recall, the grounds of the suit
24 was that his lawsuit was improper because it was an
25 attempt to gain notoriety and enhance his political

1 aspirations.

2 **Q Right. And did he tell you that?**

3 A I believe he did -- well, he told me
4 that's what the suit was about. He didn't tell me
5 that that was his --

6 **Q Sure. Sure. And what did you say in**
7 **response when he told you that?**

8 A I don't remember. I think it was more of
9 a unidirectional conversation about that. I wasn't
10 providing any guidance or advice, I was just staying
11 updated with his activities.

12 **Q Okay. And did Mr. Meyer express to you**
13 **that the counterclaim has caused him a lot of**
14 **heartburn, stress, anxiety and that sort of thing?**

15 A I would characterize it as the entire --
16 the entire thing has caused him a lot of heartburn,
17 stress and anxiety.

18 **Q What do you mean by the entire thing?**

19 A I mean, everything from the accident to
20 his suit against Big Sky to the countersuit, all of
21 it has been a source of anxiety and heartburn and
22 strife, I guess.

23 **Q Okay. And is that typical with lawsuits**
24 **that Mr. Meyer filed against the government and**
25 **other lawsuits that he has filed, did he experience**

1 a lot of stress, heartburn and anxiety about those
2 or is this more stressful for him than other
3 lawsuits?

4 A My observation is that it would be more
5 stressful.

6 Q Okay. And do you know why?

7 A I think because he is personally involved.

8 Q And Mr. Meyer's also been stressed out
9 about not having enough money of late, has he not?

10 A John's been stressed out about his
11 financial situation ever since I've known him.

12 Q Okay. So will you look at Big Sky 925?

13 MR. MORRIS: And, Breean, I think this is
14 Tab 20.

15 BY MR. MORRIS:

16 Q Do you have that in front of you?

17 A I do.

18 Q I don't believe we marked this, so let's
19 mark this Deposition Exhibit 116, please.

20 Deposition Exhibit 116 is a portion of a
21 text exchange, or it's a text exchange that you had
22 with Mr. Meyer; correct?

23 A Correct.

24 Q This is a portion that comes from that
25 program that you discussed earlier so that's why it

1 **looks different?**

2 A Correct. This was copy and pasted off my
3 laptop.

4 Q And on these, we can't see the dates that
5 these texts were exchanged, but do you have a sense
6 in reviewing this of when these texts would have
7 occurred or did occur?

8 A I think it was last winter.

9 Q Okay.

10 A Late fall, early winter is my guess.

11 Q Okay. And there is a reference in the
12 middle to discuss the 2020 budget and the loan
13 agreement between Cottonwood and Mr. Meyer. Do you
14 see that?

15 A Is it that Paula suggested we draft a loan
16 agreement?

17 Q It's part of the exchange that starts, Mr.
18 Meyer writes, thanks boss, SNAFU. Do you see that?

19 A Yes.

20 Q Okay. And then a couple of lines down
21 there is a reference to setting up a board call to
22 discuss the 2020 budget. Do you see that?

23 A Yes.

24 Q Okay. Would that have been in the winter,
25 November, something like that, in 2019 likely?

1 A Yeah, again my recollection probably late,
2 late in the calendar year, early in 2020.

3 Q Of 2019; right?

4 A Well, if it was the 2020 budget -- no, I
5 think that's true. I think it would have been late
6 2019, early 2020.

7 Q Right. If it helps, at the top it says,
8 Ems due March 6.

9 A Yeah, our child was due in March, so.

10 Q Okay. Of 2020; right?

11 A Yeah.

12 Q Okay. All right. So that would place us
13 in 2019. And do you see in that same exchange where
14 it says, front page above the fold today? Do you
15 see that?

16 A Yep.

17 Q Where Mr. Meyer's writing that to you, he
18 actually says it twice in a row?

19 A Yes.

20 Q Do you recall what Mr. Meyer's referring
21 to there?

22 A I think it was a Bozeman Chronicle news
23 article. I think he was on the front page. I don't
24 remember for what.

25 Q Okay.

1 A Gotten some press recently for the
2 Gallatin River work that Cottonwood is doing.

3 Q Okay.

4 A But it was in reference to that article.

5 Q I'm sorry, what was that?

6 A It was in reference, I think, to a front
7 page article in the Chronicle around that time.

8 Q It wasn't about this lawsuit; correct?

9 A I don't know. I don't believe so, but I'm
10 not sure.

11 Q Okay. And then if you go down a little
12 bit from that you have a message to him reads,
13 congrats on the front page press. Do you see that?

14 A Yeah.

15 Q And then -- I'm sorry. Okay.

16 Then down a little bit you -- I'm sorry.
17 After you say congrats on the front page press you
18 say, curious to know if there has been any activity
19 coming out of that.

20 Do you know what you are referring to
21 there?

22 A I'm likely referring to whether
23 Cottonwood's gotten any positive attention for that
24 and then, you know, therefore, maybe potential
25 donations or interest in the organization. You

1 know, if he was on the front page of the local
2 newspaper, I would hope that people would see that
3 and maybe be excited about the work the organization
4 was going and then maybe generate some general
5 interest about the organization.

6 **Q Okay. And then Mr. Meyer responds to your**
7 **text message and says, lots of people saying good**
8 **job and stick it to Big Sky. Do you see that?**

9 A I do, yeah.

10 **Q And is he referring there to sticking it**
11 **to the city of Big Sky, people are encouraging him**
12 **for suing the city of Big Sky?**

13 A My -- I think this is about the watershed
14 issue, the Gallatin River issue.

15 **Q Okay.**

16 A That would make sense to me. I remember
17 him getting some press for his work to try and stop
18 the city from getting a new and different type of
19 wastewater permit that would allow them to discharge
20 wastewater into the Gallatin in a different way.
21 And so my assumption here is that that article ran
22 in the local press. He was excited about it. I was
23 asking about whether that's driven any interest in
24 the organization on a whole. And that he is
25 responding no donations, but, you know, people are

1 excited about his work, that was highlighted.

2 **Q Right. And in terms of people encouraging**
3 **him to stick it to Big Sky, is that -- is he saying**
4 **that they want to stick it to Big Sky Resort in**
5 **addition to the city?**

6 A I couldn't speculate on that. I don't
7 know.

8 **Q Okay. In your experience does Mr. Meyer**
9 **have sort of an axe to grind with the city of Big**
10 **Sky and the Big Sky Resort in general?**

11 A I think his axe is -- I think he has a lot
12 of axe to grind. I think Big Sky falls under that
13 umbrella, but it does so in the context of the
14 development of the area, the disproportionate amount
15 of wealth concentrated in the area, the amount of
16 power that often comes with that wealth.

17 **Q Okay. Can you look at Big Sky 946.**

18 A Okay.

19 **Q Let's mark Big Sky 946 as Deposition**
20 **Exhibit 117. Do you have that in front of you?**

21 A I do.

22 **Q Okay. Deposition Exhibit 117 is a true**
23 **and correct copy of an additional text exchange that**
24 **you had with Mr. Meyer; correct?**

25 A Correct.

1 Q This occurred recently; is that right?

2 A Yes.

3 Q In fact, it occurred after you were named
4 as a witness or identified as a potential witness in
5 this lawsuit?

6 A Yes.

7 Q And after you told Mr. Meyer about the
8 deposition and document subpoena that Big Sky had
9 served on you; is that right?

10 A Yes.

11 Q Right. And so when Mr. Meyer sent you
12 this text message he knew about the document
13 subpoena that had been served; correct?

14 A Yeah, I had communicated to him, as I had
15 said earlier, that I was annoyed about having to
16 produce all of those documents, so he was aware of
17 that.

18 Q Right. He actually cautioned you to hold
19 off on complying with the subpoena until Ms. Walas
20 talked to you about whether or not she actually
21 wanted to call you as a witness; right?

22 A I, I, I think so. I mean, my memory was
23 that he texted me to ask if I was interested in --
24 would be willing to be a witness. I texted him back
25 saying I didn't know what was involved with that and

1 would need more information. He said that his
2 attorney would contact me.

3 I had a brief conversation with Breean
4 about what was expected, what the possibilities were
5 for having to travel, having to be present at a jury
6 trial, what the process would look like. And then
7 we were texting later about something and I
8 commented about being frustrated about having to
9 screen shot all of these text messages and compile
10 all of them. And that's, I think, somewhere around
11 where the response starts on this page.

12 **Q Okay. Let me do this. Do you have the**
13 **large document that contains all the text messages**
14 **in front of you?**

15 A The Word document or the -- I have all of
16 them here.

17 **Q Sure, the Word document. That's fine.**

18 A Yep.

19 **Q If you turn to Big Sky 952, please.**

20 A Okay.

21 **Q This is -- at the bottom of Big Sky 942 is**
22 **that conversation that you were trying to describe**
23 **to me; correct?**

24 A Correct, yeah.

25 **Q And can you read into the record the**

1 **bottom text message that Mr. Meyer sent to you?**

2 A On 952?

3 **Q Yeah.**

4 A John wrote, Big Sky is a bunch of greedy
5 shithheads that would rather make everyone's life
6 difficult rather than own up to the fact that they
7 were negligent. Two other people were injured in
8 the same place. I think they are asking that you
9 not be included as a witness. Let me ask the
10 attorney if you are included before you have to do a
11 bunch of mundane shit for nothing.

12 **Q Right. And you had referred earlier to**
13 **this, Mr. Meyer communicating to you his assertion**
14 **that other people were injured in the same place.**

15 **Do you recall that testimony?**

16 A Yes.

17 **Q And is this text message the basis for**
18 **that testimony?**

19 A This is part of where I heard that from
20 him, yeah, one place where I have. I wouldn't say
21 it's the only.

22 **Q Okay. But he had repeated his assertion**
23 **to you at other times.**

24 A Yes.

25 **Q Okay. And that was after this lawsuit was**

1 **filed; right?**

2 A I think so, yeah.

3 Q Right. And so after you received the
4 subpoena, Mr. Meyer told you to hold off so you
5 didn't have to do, quote, a bunch of mundane shit
6 for nothing; right?

7 A Correct.

8 Q Right. And then the next thing that
9 happened you actually sent him a screen shot of the
10 subpoena; correct?

11 A Correct.

12 Q And so Mr. Meyer knew when he sent the
13 text message on Deposition Exhibit 117 about the
14 subpoena and what was being requested; right?

15 A I would assume so if you read that screen
16 shot.

17 Q Right. And if he read your text message

18 --

19 A Right.

20 Q -- informed him that you were going to
21 have to send all text messages; right?

22 A Correct.

23 Q So Mr. Meyer knew or should have known
24 that this text message that is shown on Exhibit 117
25 would be produced by you pursuant to the subpoena;

1 correct?

2 A Yeah, that's a fair assumption.

3 Q Right. And these insults and sort of
4 description of physical violence that Mr. Meyer's
5 fantasizing about, he knew that Big Sky's attorneys
6 would receive that information; right?

7 A Right. As I previously stated, that's a
8 fair assumption that he knew that this would be part
9 of the subpoena production.

10 Q Right. In fact, in this text message he's
11 telling you or asking you to communicate these
12 threats to Big Sky and its attorneys; right?

13 A Yeah, he says please be sure to tell them.

14 Q Right. Right. So he is actually saying
15 please be sure to tell the Pig Stye attorneys that
16 I'm going to use the jury award against them to
17 unionize their whole fucking ski patrol after this
18 case is over; right?

19 A That's the beginning of it, yeah. He goes
20 on from there.

21 Q Okay. And so he wanted you to communicate
22 a threat to Big Sky's attorney against Big Sky;
23 correct?

24 A I mean, this is what he sent to me. I'm
25 not sure if he expected me to actually follow

1 through or he is being facetious.

2 **Q Sure. And in the threat that he is**
3 **communicating and asking you to communicate to me**
4 **and the other Big Sky attorney is that he wants to**
5 **do something that's disruptive of Big Sky's**
6 **operations; correct?**

7 A I mean, that specifically, he says he
8 wants to unionize the ski patrol. I don't think
9 he's --

10 **Q Right.**

11 A -- characterizing that as disruptive, he's
12 just saying that that's what his goal is.

13 **Q Sure. And so what he wants to do is**
14 **unionize the whole ski patrol because he believes**
15 **that that would -- that that would disrupt Big Sky's**
16 **operation, that would disincentivize Big Sky from**
17 **defending itself in this lawsuit; correct?**

18 A I think that's speculation. I think he's
19 just saying one of his goals is to unionize the ski
20 patrol.

21 **Q He also is communicating to you that he**
22 **wants you to tell Ian McIntosh about his daydreams**
23 **of tearing the skin off of Ian McIntosh's face with**
24 **his bare fingers; right?**

25 A Yeah, he says, I was having daydreams --

1 he says, please tell that douche bag Ian McIntosh
2 that I started seeing a psychologist because I was
3 having daydreams about tearing the skin off his face
4 with my bare fingers.

5 **Q Right. So he wanted you to tell Ian about**
6 **these daydreams that he was having of physically**
7 **harming Ian McIntosh; right?**

8 A He wanted me to tell Ian that he needed to
9 start seeing a psychologist because he was having
10 those daydreams.

11 **Q Okay. Mr. Meyer communicated to you in**
12 **this fashion about a sort of vendetta that he has**
13 **against Big Sky and/or its attorneys as a result of**
14 **this lawsuit?**

15 A I would say John has communicated a
16 dislike for Big Sky and Big Sky's attorneys for the
17 stress and anxiety that this process has caused.

18 **Q Sure. And the stress and anxiety that**
19 **this process has caused, what are you referring to**
20 **when you're saying this process?**

21 A Again, I would say, you know, both of the
22 lawsuits, the one he has brought, the countersuit
23 against him, and then all of the, you know,
24 testifying and character questioning and all the
25 things involved with, you know, being sued.

1 Q Sure. And you understand that Mr. Meyer
2 is the one that initiated this lawsuit; right?

3 A Of course, yeah.

4 Q Right. And did Mr. Meyer ever tell you
5 that he wanted to buy a billboard on the way to Big
6 Sky that would disparage Big Sky?

7 A No.

8 Q Let me take a really short break. I'm
9 just going to review my notes. I think I'm done,
10 but I just want to double check. So if we can take
11 a real quick break and go off the record.

12 (Recess taken)

13 MR. MORRIS: Back on the record.

14 BY MR. MORRIS:

15 Q Trevor, that's all the questions I have.
16 Thanks so much for your time. And I appreciate
17 that. And you have the opportunity to get a copy of
18 the transcript and review it for any corrections you
19 want to make or you can waive that opportunity. And
20 just say whatever the transcript says, I'm good
21 with. So you understand that you have that right?

22 A I do.

23 Q Okay. And do you want to read and sign
24 and make any corrections necessary or do you just
25 want to waive that right today?

1 A I would like to read and sign.

2 Q Okay. All right.

3 MR. MORRIS: And I will reserve any other
4 questions for trial and thanks again.

5 MS. WALAS: I'm going to ask some follow-
6 up questions.

7 MR. MORRIS: Okay, sorry.

8 MS. WALAS: That's okay. We got that
9 squared away.

10 **EXAMINATION**

11 **BY MS. WALAS:**

12 Q Trevor, I'm going to ask some follow-up
13 questions and just confirm like every other break
14 you still understand you are under oath?

15 A Yes.

16 Q Okay And you guys covered a few things
17 here today. And I think at the beginning you said
18 what your understanding was of what you were here to
19 testify about today; is that correct?

20 A Yeah, my understanding is just of someone
21 who has known John for a long time, both before and
22 after the accident, and so I could provide context
23 about who he is as a person, his personality, the
24 impacts that the accident may have had on him
25 physically and mentally.

1 **Q Okay. How long did you say you have known**
2 **John?**

3 A We met in the summer of 2009, so 11 years.

4 **Q Okay. And you met farming?**

5 A We met just peeling fence rails actually
6 is what we were doing.

7 **Q That's right. That's right.**

8 **And tell me what John was like back then**
9 **when you met him.**

10 A John was just like a super energetic, sort
11 of live wire kind of guy. Had a ton of enthusiasm
12 and energy for life. He was really into climbing
13 and hunting and just was sort of, you know, extreme
14 in a lot of those pursuits.

15 I remember him wanting to try to kill his
16 own deer with a knife at one point. He thought he
17 could hide in the tree and drop down on it in a
18 bunny suit.

19 But, yeah, I mean, he was really engaging.
20 And he liked to have -- I think I was attracted to
21 him because he liked to have meaningful
22 conversations. He was a deep thinker.

23 And so we bonded over the physical
24 interest in climbing and recreational opportunities,
25 but I think what's really made the relationship last

1 is that I appreciate his mind a lot in him as a
2 conversationalist.

3 **MR. MORRIS:** Trevor, what did you say, he
4 lived with a. --

5 **THE WITNESS:** He lived with?

6 **MR. MORRIS:** I didn't hear that. I was
7 trying to get clarity. I'm sorry to interrupt,
8 Breean.

9 Did you say he lived with a tree maker?

10 **THE WITNESS:** No. I was explaining that
11 he was sort of extreme in a lot of his pursuits.

12 **MR. MORRIS:** Okay. All right. Sorry, I
13 must have been -- go ahead, Breean. I'm sorry.

14 **BY MS. WALAS:**

15 **Q** So you said your attraction to him was
16 both the physical and the mental. You know, you
17 guys just really sort of connected on a lot of
18 levels.

19 Is that kind of a good summary of when you
20 first met?

21 **A** Yeah, yeah. He was pushing me to do, like
22 to climb. I had never tried climbing before and he
23 was someone who knew how to track climb. And so he
24 was really eager to teach me that and sort of show
25 me how to do that.

1 But I think what I realized and what I,
2 you know, started really to real appreciate about
3 him was not only was he a great and sort of
4 adventure buddy in a lot of ways because he had
5 these skills, and his knowledge and his fitness, but
6 he was also was a dynamic person who is really
7 interesting to talk to, well-educated, you know,
8 thoughtful, interesting conversationalist.

9 **Q And you talked a lot about what you**
10 **learned about John's wreck on December 11, 2015.**
11 **And I just want to confirm that your knowledge is**
12 **from his father, Amanda and John?**

13 A Yeah.

14 **Q Did you speak to any of the doctors when**
15 **you were in the hospital or the rehab facility?**

16 A I think any conversations I had with them
17 was just more about his present condition at the
18 time, not about sort of his accident in any way, but
19 wondering, you know, what was going on with him,
20 what their prognosis was going forward, what they
21 thought he would -- how he thought he would recover,
22 trying to help him communicate.

23 So I remember distinctly the broken arm
24 was really frustrating to him because he had been
25 complaining about the broken arm for a while and

1 then they finally decided to x-ray it and they
2 confirmed, oh, yeah, you snapped your arm as well so
3 he had -- but, you know, no conversations with him
4 about, you know, his accident or what had happened
5 that way. More just his sort of physical, medical
6 situation.

7 **Q And I believe you mentioned that, you**
8 **know, you knew that he had incurred some medicals**
9 **bills related to those injuries?**

10 **A (No audible response.)**

11 **Q Okay. And do you have any idea how much**
12 **he incurred in medical bills?**

13 **MR. MORRIS:** Objection; asked and
14 answered.

15 **A** I just knew it was substantial. I don't
16 know the dollar figure. I think he had thrown out,
17 you know, six-figure dollar figures about total
18 cost.

19 **Q Okay. Do you know anything else about how**
20 **the wreck has affected John financially?**

21 **A** No. I mean, I just know that it was, you
22 know, he incurred a lot of debt and he had some
23 issues with insurance covering certain aspects of
24 it. So, yeah, I think that's all.

25 **Q And you testified that you visited him in**

1 **the hospital. Describe what John looked like that**
2 **first day when you arrived.**

3 A I mean, pretty startling. He was
4 intubated. He was -- I think he was asleep when I
5 got there. Hooked up to all the different wires and
6 bells and whistles. He had blood -- dried blood
7 still on the side of his face. His whole arm was
8 sort of wrapped up. He was pretty bruised and
9 battered and, you know, eventually he sort of woke
10 up.

11 And, again, we were there in and out for
12 like two or three days, so certain conversations
13 with him eventually when he would sort of like come
14 to or be awake. And he just, you know, he tried to
15 stand at one point because he had to go pee and it
16 took like three or four of us to get behind him and
17 he was super unsteady. That was pretty consistent
18 for weeks.

19 And I think the most sort of startling
20 thing was just like he -- you could tell like he
21 recognized me. He was like, but he was --
22 cognitively, he just wasn't firing like he normally
23 would be. I mean, he could -- it was sort of like
24 talking to someone who has Alzheimer's, or dementia
25 or something.

1 It was like he would come into these brief
2 moments of clarity where he could be sort of like,
3 okay, I understand what's going on. And then, you
4 know, he would fade from that and just sort of be in
5 and out that way.

6 So I was excited that he knew who I was.
7 He gave me a big smile, but I would be talking to
8 his father in the room or something and look over
9 and he was clearly just sort of like, you know,
10 really mentally affected by it.

11 **Q Okay. You used the word cognitively, that**
12 **John was cognitively affected, you could tell when**
13 **you saw him.**

14 **How would you -- how would you explain how**
15 **John has cognitively changed since the wreck?**

16 A He doesn't seem to have like the same
17 sharpness about him. I mean, he doesn't have the
18 same sharpness about him. He'll sometimes forget
19 that we had conversations or he'll misplace details
20 of conversations we've had. He'll misplace -- like
21 I have a -- when I first met John I had a different
22 partner and we had a dog together. I'm now married
23 and my wife and I have a dog. And he'll often sort
24 of swap the dog names even though he's known that I
25 haven't had that dog for a long time.

1 His speech has been really slow, you know,
2 especially at first, but still to this day. It's
3 not even -- talk the same way that he used to. And
4 he has talked to me about that and I've, you know,
5 just witnessed it that he's -- he struggles to sort
6 of match his mouth I think with his thoughts
7 sometimes. And he's -- he can't get it out the way
8 he wants to get it out the way he normally used to.
9 It's been really frustrating for him that way.

10 And I think there's this like emotional
11 rawness to him that was really startling. I mean,
12 he's always been someone who has been in touch with
13 his emotions, but he's also been a fairly stoic
14 dude. And, you know, I would say some of these
15 instances where he just -- like he came and visited
16 my wife and I in Missoula when he was running for
17 congress. And he was telling us about a speech he
18 wanted to make. And he just started, just bawling,
19 just break down and crying. And it really wasn't
20 about -- it didn't seem like a story or a situation
21 that would be upsetting to anybody.

22 And the same is a true like he would just
23 sort of laugh maniacally sometimes about stuff.
24 And, you know, just things that I -- behaviors I
25 hadn't seen from him before. But he seemed to be

1 like, not out of control emotionally, but not in as
2 strong control as he used to. Like it would sort of
3 overtake him. All of sudden he would be so sad,
4 he'd just be like weeping or crying. Or sometimes
5 he would find something funny that might be like a
6 chuckle kind of response to everybody else, but it
7 was like a hysterical laughter kind of response for
8 him.

9 **Q Have those changes impacted your**
10 **relationship with him?**

11 A Yeah, I mean, they've impacted mine,
12 they've impacted Amanda's, I know. Like Amanda
13 called me a few months after he was out of rehab and
14 was talking to me about, you know, what I had seen
15 in changes. And she wanted to learn more about what
16 John was like prior to his injury to see if what she
17 was seeing was, you know, resultant of the injury.

18 So, I mean, we remain really good friends
19 and I don't think it's undermined our friendship in
20 any way, but it's certainly changed the dynamic in a
21 lot of ways.

22 **Q Now I'm going to follow up on a few things**
23 **that you testified about during your deposition, so**
24 **it might seem like I'm jumping around a little bit.**
25 **I'll try to give a little bit of a pause as I switch**

1 subjects so if you need to grab an exhibit or
2 anything.

3 So the first thing I want to touch on is
4 you were asked a lot about backcountry skiing.

5 Do you recall that?

6 A Yeah.

7 Q And when you're backcountry skiing, you
8 know there aren't going to be signs; is that
9 correct?

10 A Yeah.

11 Q And what's the difference between, say,
12 that backcountry skiing and skiing at a recert?

13 A I think there's an expectation at a resort
14 that there is a lot more infrastructure and effort
15 and support put into guiding skiers, helping them
16 make safe decisions, making sure everybody is, you
17 know, skiing on safe terrain. There's personnel.
18 There's safety resources. There's trees wrapped in
19 foam pads. There are signs telling you where to go.

20 You know, so with backcountry skiing there
21 is none of that. There is the assumption that you
22 are out in the woods and you are by yourself and you
23 need to be self-sufficient. I don't think that
24 self-sufficiency expectation is true when you're in
25 a resort.

1 **Q And would you say that you ski backcountry**
2 **different than you ski at a resort?**

3 A Yeah, absolutely. I mean, I think knowing
4 -- knowing that there's a professional ski patrol
5 staff there if something does go wrong makes a lot
6 of people -- influences a lot of the decisions on
7 how they ski. It influences decisions on how I ski
8 in a resort.

9 I mean, if I'm in the backcountry and have
10 a minor, you know, break my binding or have some
11 minor injury, that's way more calamitous than
12 something at a resort. So I'm infinitely more
13 cautious when backcountry skiing than when I'm on a
14 resort.

15 **Q And do you recall Deposition Exhibit 98?**

16 I think that was the subpoena.

17 A Yeah.

18 **Q And when you were talking about the**
19 **documents, I believe you -- kind of talking about**
20 **the Bozone lister.**

21 A Yeah.

22 **Q And about John being banned from that**
23 **lister; is that correct?**

24 A Yeah.

25 **Q And do you know if that was -- he was**

1 **banned because of matters related to this lawsuit?**

2 A I don't know. I don't -- yeah, I don't
3 know.

4 Q And you were asked about being the
5 plaintiff in a net metering case?

6 A Yeah.

7 Q And I think I might have just missed it,
8 but were you actually the named plaintiff?

9 A I don't -- I don't think so. The only
10 action that I took is he shared the one document
11 with me and asked if I would be willing to be named.
12 And I agreed and signed it, but nothing further
13 happened on my end.

14 Q Okay. If you will go ahead and grab
15 Deposition Exhibit 101.

16 A Okay.

17 Q And in the middle of that text exchange
18 there's a -- it looks like there's a text from John
19 about taking lessons. Do you see that?

20 A Yep.

21 Q And do you know what type of ski lessons
22 he was -- or what type of lessons he was talking
23 about?

24 A He was, I believe he was taking lessons at
25 Bridger Bowl to improve his skiing, so.

1 **Q And when you read that he was doing that**
2 **to get back some confidence, what did you interpret**
3 **that to mean?**

4 **MR. MORRIS:** Objection; speculation.

5 A I interpreted it to mean that he was
6 trying to get back to where he was so that he could
7 ski the way he had and recreate the way he had. He
8 was very frustrated by the setbacks caused his
9 inability to do what he used to be able to do at the
10 same level.

11 **Q And you might have just asked this, but**
12 **what's the basis for that understanding of what he**
13 **meant by that, getting back confidence?**

14 A John -- we had multiple conversations
15 after his accident, you know, just about his
16 limitations. And he prior to the accident was very
17 fit, very active, very capable. Was able to do a
18 lot of things in the backcountry and climbing and
19 running and biking that he just wasn't able to do
20 after his accident.

21 So he had, you know, he was trying over
22 time to build back his fitness, to build back his
23 balance, to build back his confidence because, you
24 know, it's a huge part of what makes him tick and
25 what's important to him is being able to do those

1 things.

2 **Q** Okay. You mentioned fitness. And do you
3 recall testifying about some pull-up references John
4 made?

5 A Yes.

6 **Q** And I think how many pull-ups was he able
7 to do?

8 A I think he said two.

9 **Q** Do you know if that was -- he was limited
10 by anything to do with the ski wreck?

11 **MR. MORRIS:** Objection; speculation.

12 A That was my assumption, yeah.

13 **Q** What type of injuries did he have in the
14 ski wreck?

15 **MR. MORRIS:** Objection; speculation.

16 A He broke his forearm. He broke his
17 scapula in several places. I believe he cracked or
18 broke some ribs, punctured a lung. He had a
19 traumatic brain injury. I believe he dislodged the
20 cartilage from his ear.

21 **Q** And you know all that because you visited
22 him in the hospital?

23 A Yeah, I mean, I was there in the ICU
24 talking with doctors and nurses about his condition
25 and what happened, talking to his father who was

1 managing his care.

2 Q And you were asked about some text
3 messages. And did you delete any text messages to
4 hide anything?

5 A No.

6 Q And when you deleted those text messages
7 did you have any idea you were going to need them
8 for litigation?

9 A No.

10 Q And you talked a little about working with
11 John at Cottonwood. And I was wondering if, had
12 John always been a last minute planner?

13 A Yeah. Yeah, he is not --

14 Q So that's --

15 A That's part of his personality, yeah. I
16 think he doesn't follow a lot of social norms and I
17 think planning is one of those.

18 Q And do you think it's worse since the
19 wreck?

20 MR. MORRIS: Objection; leading,
21 foundation.

22 Q I can rephrase it.

23 Do you think it's different since he has
24 had the wreck?

25 MR. MORRIS: Objection; foundation and

1 leading.

2 A I think that -- I don't know. I don't
3 know that I could speak to that. I think he's
4 always been that way in a big respect. I don't
5 think that it's had a noticeable affect on his
6 ability to plan things as much as it has on his
7 ability to think and to do the physical things that
8 he wants to do.

9 **Q Now would you consider John to be**
10 **stubborn?**

11 A Yeah, I think stubborn is a word, but I
12 want to add that he -- what a lot of people miss
13 about John is that he is also reasonable. He's
14 blunt and he's outspoken and he speaks his mind. He
15 doesn't mince words. But if you are willing to have
16 a conversation with him he will give up ground if he
17 thinks that you have a reasonable argument. He's
18 not so stubborn in that he's just, you know, single
19 minded in all these ways. He is intelligent and
20 thoughtful. He's just, I think, has a rough
21 exterior that a lot of people don't have patience
22 for to really get underneath.

23 **Q Now you were asked a little bit about**
24 **John's sobriety. And do you know if his sobriety**
25 **has been affected by the wreck?**

1 A Not to my knowledge, no. I think it's
2 been -- the community that he's built around
3 sobriety and AA has been a positive element in his
4 life.

5 **Q And what about Cottonwood? You're Chair**
6 **of the board; correct?**

7 A Correct.

8 **Q And would you agree with me that your role**
9 **is to kind of look out for the organization as a**
10 **whole?**

11 A Yeah, I mean, Board Chair -- the board in
12 general is -- his role is, as you described, the
13 Board Chair, is obviously a really critical part of
14 the board. So, yeah, I would say that that's
15 accurate.

16 **Q And what does that look like to you?**

17 **MR. MORRIS:** Objection.

18 A It looks like trying to -- trying to make
19 Cottonwood resilient and strong and successful. So,
20 you know, we spend a lot of time trying to tell the
21 story of Cottonwood, trying to figure out ways that
22 we can fund raise money, plan events, approving
23 budget, looking at compliance issues as testified
24 today. I mean, a lot of things, conflict of
25 interest and directors and officers concerns. So

1 just making sure that the organization is stable and
2 strong, but also in compliance with all the laws and
3 regulations that pertain to it.

4 **Q And so that would involve asking**
5 **questions?**

6 A Yes.

7 **Q And raising concerns?**

8 A Yes.

9 **Q And I believe you said you all have**
10 **discussions about decisions that you are going to be**
11 **making?**

12 A Yes.

13 **Q And you kind of described John as you know**
14 **him and something that I wanted to ask you, do you**
15 **consider John to be a kind of a go-big or go-home**
16 **kind of guy?**

17 A Yeah, I think John's really visionary.
18 And he is constantly sort of shooting for the stars
19 in that way. I mean, I think that that's something
20 I've struggled with him, a very rationale realistic
21 person. And John has a lot of really big ideas. And
22 so, yeah, I would say that's accurate.

23 **Q Okay. I think that you said that before**
24 **his wreck he kind of out paced you on outdoor**
25 **activities and you had to keep up?**

1 A (No audible response.)

2 Q And how has that changed since the wreck?

3 A Yeah, I mean, it was -- his nickname with
4 some of our friends in Bozeman was Iron John. I
5 mean, he would go out. He was very proud of the
6 fact that on a lot of the outings we did I worked
7 myself to a point of exhaustion where I actually
8 threw up on several occasions and he thought that
9 was hilarious. And he would sort of laugh at me in
10 my struggling to keep up.

11 You know, ever since his accident and we
12 started recreating again he's much, much slower. He
13 has, you know, new pains and physical restrictions,
14 but I think it's that fitness piece is just not
15 there as well his breathing has been a big issue.

16 It's one of the reasons I chose not to go
17 on the Rainier trip with them because I had concerns
18 we would, you know, put all this time, money and
19 effort in to trying to make a good faith effort to
20 summit Rainier knowing that likely John wouldn't be
21 able to because of his fitness and his breathing
22 issues.

23 I did a trip with him. We went and skied
24 Lolo Peak in Missoula which is a pretty reasonable
25 backcountry trip and he was just sort of dragging

1 ass the whole time. So I went from, you know,
2 chasing him in the mountains to him trying to chase
3 me, so yeah.

4 Q And has your testimony today been based on
5 your personal knowledge and observations during the
6 time that you've been around John?

7 MR. MORRIS: Objection; vague, too vague.

8 A Yes.

9 MR. MORRIS: And leading.

10 Q And has your testimony today been based on
11 your personal observations and discussions with
12 John?

13 MR. MORRIS: Objection; vague and leading.

14 A Yes.

15 Q Did you do any independent research into
16 this lawsuit today or any other matter before
17 testifying?

18 A No.

19 Q And did anything John told you, including
20 the text messages Mr. Morris asked you about,
21 influence your testimony today?

22 A No.

23 MR. MORRIS: Objection; vague and leading.

24 Q And has your relationship with John
25 influenced your testimony today?

1 **MR. MORRIS:** Objection; vague and leading.

2 A No. I mean, I think my willingness to be
3 a witness is because I care about him as a friend,
4 so I guess to that extent.

5 **Q** And is everything you have said today been
6 to the best of your recollection?

7 A Yes.

8 **MS. WALAS:** I'll pass the witness.

9 **FURTHER EXAMINATION**

10 **BY MR. MORRIS:**

11 **Q** Trevor, just a couple of follow-ups.

12 Ms. Walas was asking you about the
13 difference between skiing at a ski resort and skiing
14 in the backcountry.

15 Do you recall that?

16 A Yes.

17 **Q** And I think you said you're infinitely
18 more careful in the backcountry than you are at a
19 ski resort?

20 A Yes, personally I am.

21 **Q** And you think you have an obligation to
22 ski carefully when you are at a ski resort?

23 A Yes.

24 **Q** And to ski in a manner that avoids injury
25 to yourself?

1 A Yeah, I think the primary obligation is to
2 maintain control so as not to hurt others.

3 **Q Right. And do you also have a**
4 **responsibility to yourself to avoid skiing in a way**
5 **that you avoid injury to yourself?**

6 A Yeah, I would say both in the backcountry
7 and on a resort.

8 **Q Right. And at the ski resort you have a**
9 **heightened duty to ski carefully because there are**
10 **other people around; right?**

11 A You have that additional responsibility,
12 yes. I mean, there are often other people in the
13 backcountry depending on the situation.

14 **Q Sure. But on a typical day at a ski**
15 **resort there's more people on the hill around you**
16 **than there are in the backcountry; right?**

17 A Yes.

18 **Q You have to look out for obstacles and**
19 **terrain so that you don't run into somebody else on**
20 **the ski resort.**

21 A Yeah, I mean, I think those are two
22 separate things. You have to look out for obstacles
23 and terrain so you don't injure yourself. I think
24 you have to also look out for other people so you
25 don't injure them.

1 **Q** I'm sorry. Were you finished with your
2 **answer?**

3 **A** Yes.

4 **Q** Okay. So if there was a blind spot on a
5 piece of terrain at the ski resort, you would need
6 to approach that cautiously because you wouldn't
7 know whether or not there was somebody in that blind
8 spot that you could run into; right?

9 **A** Correct.

10 **Q** Right. And that's an obligation that you
11 have on the ski resort that is heightened as
12 compared to in the backcountry.

13 **A** Yeah, I would agree with that.

14 **Q** Okay. That's all the questions I have.

15 **MS. WALAS:** I don't have anything further.

16 Trevor, thank you for your time today.

17 **THE REPORTER:** Are you ordering this
18 transcript?

19 **MR. MORRIS:** Yes, I am. Thank you.

20 **MS. WALAS:** I would like an electronic
21 version, please.

22 **MR. MORRIS:** Electronic is fine for me as
23 well.

24 **(The deposition was concluded at**
25 **approximately 5:45 p.m.)**

CORRECTION SHEET

Deposition of: Trevor Lowell Date: 8/25/20

Regarding: Meyer vs. Big Sky Resort

Reporter: Slinn

Please make all corrections, changes or clarifications to your testimony on this sheet, showing page and line number. If there are no changes, write "none" across the page. Sign this sheet on the line provided.

Page	Line	Reason for Change
------	------	-------------------

176 22 & 23 "tried climbing" & "track climb" are typos. It should be "trawl"

152 C "immediate" is a typo, it should be "intermediate"

135 i "immediate" should be "intermediate"

Signature

Tom Fowell

Trevor Lowell

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DECLARATION

Deposition of: Trevor Lowell Date: 8/25/20

Regarding: Meyer vs. Big Sky Resort

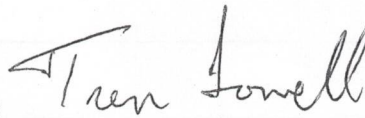
Reporter: Slinn

I declare under penalty of perjury the following to
be true:

I have read my deposition and the same is true and
accurate save and except for any corrections as made
by me on the Correction Page herein.

Signed at _____,
on the 4th day of October, 2020.

Signature



Trevor Lowell

CERTIFICATE

I, Deborah J. Slinn, Certified Shorthand
Reporter, certify:

That the foregoing proceedings were reported
stenographically by me at the time and place
herein set forth;

That the foregoing is a true and correct
transcript of my shorthand notes so taken to the best of
my ability;

That the witness was sworn by me as a Notary
Public for the State of Vermont;

That I am not a relative or employee of any
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My commission expires January 31, 2021.